

SETTLEMENT AGREEMENT

This Settlement Agreement (this “Settlement” or “Agreement”) is made by and between plaintiff Brian Hazel, individually and on behalf of all others similarly situated, and on behalf of the State of California (“Plaintiff”), and defendant Himage Solutions, Inc. (“Himage”). Plaintiff and Himage collectively are referred to in this Agreement as the “Parties.” This Agreement replaces and supersedes the Settlement Agreement executed by the Parties on or about October 30-November 5, 2020 (the “Prior Agreement”).

I. RECITALS

- A. On April 30, 2020, Plaintiff submitted to the Labor and Workforce Development Agency of the State of California (the “LWDA”) notice of claims under the California Labor Code Private Attorneys General Act, Cal. Lab. Code section 2698 *et seq.*, (“PAGA”) against Himage.
- B. On April 29, 2020, Plaintiff filed a complaint against Himage entitled “*BRIAN HAZEL, on behalf of himself and all others similarly situated, Plaintiff, vs. HIMAGINE SOLUTIONS, INC., and DOES 1-100, inclusive, Defendants,*” and assigned the Case No. 20STCV17008, in the Superior Court of the State of California, for the County of Los Angeles (the “*Hazel I* Action”). The initial complaint in the *Hazel I* Action asserted claims on an individual and putative class basis against Himage for alleged violations of California wage and hour laws. On May 21, 2020, Plaintiff filed a First Amended Complaint in the *Hazel I* Action, asserting in addition to his original allegations, a cause of action for alleged violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. section 201, *et seq.*, with respect to a proposed California collective.
- C. On July 8, 2020, Himage removed the *Hazel I* Action to the United States District Court for the Central District of California (the “District Court”), where it was assigned Case No. 2:20-cv-06072.
- D. On July 20, 2020, Plaintiff filed a complaint against Himage entitled “*BRIAN HAZEL on behalf of the State of California, Plaintiff, vs. HIMAGINE SOLUTIONS, Inc., and DOES 1-100, inclusive, Defendants*” (the “*Hazel II* Action”), pending before the Superior Court of California for the County of Alameda (the “Superior Court”), No. RG20068159. In the *Hazel II* Action, Plaintiff asserted claims under the California Labor Code Private Attorneys General Act (“PAGA”).
- E. On August 6, 2020, the Parties participated in a mediation presided over by the Honorable Gail A. Andler, of JAMS ADR. During the mediation, each side, represented by its respective counsel, recognized the substantial risk of an adverse result in the *Hazel I* Action and the *Hazel II* Action and agreed to settle certain claims made in the *Hazel I* Action and the *Hazel II* Action, and all other matters covered by the Prior Agreement pursuant to the terms and conditions of the Prior Agreement. The Prior Agreement formalized the Memorandum of Agreement entered into at the mediation.

- F. On November 2, 2020, pursuant to the Prior Agreement, Plaintiff filed a First Amended Complaint (“FAC”) in the *Hazel II* Action that encompassed the California Labor Code claims and putative California class alleged in the *Hazel I* Action.
- G. On November 16, 2020, pursuant to the Prior Agreement, and with his California Labor Code claims and putative California class now pending in the *Hazel II* Action, Plaintiff filed a stipulation to dismiss the *Hazel I* Action in its entirety, without prejudice. On November 17, 2020, the District Court granted the stipulation and ordered the *Hazel I* Action dismissed in its entirety, without prejudice.
- H. On December 7, 2020, the Parties participated in a second mediation presided over by the Honorable Gail A. Andler, of JAMS ADR. During the mediation, each side, represented by its respective counsel, recognized the substantial risk of an adverse result in the litigation, and agreed to settle all claims made in the *Hazel II* Action, and all other matters covered by this Agreement pursuant to the terms and conditions of this Agreement.
- I. After the December 7, 2020 mediation, the Parties and their counsel signed a Settlement Term Sheet and Agreement that contains the broad terms of the settlement. The Parties then drafted this long-form Agreement, which formalizes the Settlement Term Sheet and Agreement.
- J. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Himagine that any of Plaintiff’s claims in the *Hazel I* Action and/or the *Hazel II* Action have merit or that it has any liability to Plaintiff or the Class on any of those claims, or as an admission by Plaintiff that Himagine’s defenses have merit.

Based on these Recitals, the Parties agree as follows:

II. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- A. “Action” means the *Hazel II* Action, “*BRIAN HAZEL on behalf of the State of California, Plaintiff, vs. HIMAGINE SOLUTIONS, INC., and DOES 1-100, inclusive, Defendants,*” pending before the Superior Court of California for the County of Alameda, No. RG20068159.
- B. “Class” means all current and former employees who worked for Himagine in a non-exempt Coder Position (as defined below) while residing in the State of California, at any time from November 1, 2015 through the date on which the Superior Court grants preliminary approval of the Settlement. The Class covers approximately 178 Class Members.

- C. “Class Counsel” means Carolyn Hunt Cottrell, David C. Leimbach, and Scott L. Gordon of Schneider Wallace Cottrell Konecky LLP and Alan L. Quiles of Shavitz Law Group, P.A.
- D. “Class Counsel Fees and Expenses Payment” means the amount awarded to Class Counsel by the Court to compensate them for the services they have rendered and will render to Plaintiff and the Class, and any expenses they have incurred, in connection with the *Hazel I* Action and the *Hazel II* Action, including their pre-filing investigation, their commencement of the *Hazel I* Action and the *Hazel II* Action, and all related litigation activities, this Settlement, and all post-Settlement compliance procedures.
- E. “Class Members” means all members of the Class.
- F. “Class Notice” means the Notice of Proposed Settlement, Conditional Certification of Settlement Class, Preliminary Approval of Settlement, and Hearing Date for Final Court Approval as evidenced by Exhibit A to this Agreement and incorporated by reference into this Agreement.
- G. “Class Notice Packet” means the Class Notice (Exhibit A to this Agreement) and the Notice of Estimated Settlement Award (Exhibit B to this Agreement).
- H. “Class Representative Payment” means the special payment made to Plaintiff in his capacity as Class Representative to compensate him for initiating and pursuing the *Hazel I* Action and the *Hazel II* Action, undertaking the risk of liability for attorneys’ fees and expenses in the event he was unsuccessful in the prosecution of the *Hazel I* Action and the *Hazel II* Action, and granting the release described in section III.F.1 of the Settlement.
- I. “Coder Position” means the following non-exempt positions: Coder Inpatient, Coder In/Outpatient, Coder Physician, Coder Outpatient PT, Coder ER PT, Coder ER, Coder Outpatient, Associate Coder - Acute Care, Coder HCC, Coder Inpatient PT, Coder Ancillary PT, Coder Physician PT, Coder Ancillary, and Coder In/Outpatient PT.
- J. “Covered Period” means the period of time from November 1, 2015 through the date on which the Superior Court grants preliminary approval of the Settlement.
- K. “Effective Date” means the date by which all of the following have occurred:
 - 1. Himagine has not voided this Settlement pursuant to section III.E.6 or section III.H;
 - 2. the Superior Court enters the Judgment; and
 - 3. the Judgment becomes Final.

- L. “Exclusion Letter” means a signed letter requesting exclusion from the Settlement that is mailed to the Settlement Administrator. The Exclusion Letter must include the Class Member’s name, the last four (4) digits of the Class Member’s Social Security number, the Class Member’s signature, and the following statement or a substantively similar statement: “I request to be excluded from the class action Settlement taking place in the matter of *Hazel v. Himagine Solutions, Inc.*, Case No. RG20068159, Superior Court of California, County of Alameda.”
- M. “Final” means that the Settlement has been finally approved by the court in the Action, and either (1) the California Court of Appeals has rendered a final judgment affirming the final approval without material modification and the date for further appeal has passed without further appeal; (2) the California Court of Appeals has rendered a final judgment affirming the final approval without material modification and the further appeals have been resolved without material modification of the final approval order; or (3) the applicable date for seeking appellate review of the final approval of the Settlement has passed without a timely appeal or request for review having been made.
- N. “Final Approval Hearing” means the hearing to be conducted by the Superior Court to determine whether to approve finally and implement the terms of this Agreement.
- O. “Himagine’s Counsel” means Zachary P. Hutton, Emily Pidot, and Anna M. Skaggs of Paul Hastings LLP.
- P. “Judgment” means the Order Granting Final Approval of Class Action Settlement and Entering Final Judgment entered by the Superior Court in substantially the same form evidenced by Exhibit D to this Agreement and incorporated by reference into this Agreement.
- Q. “LWDA Payment” means the \$30,000 payable to the LWDA for its share of the settlement of claims for civil penalties under PAGA, as specified in section III.C.3 of this Agreement.
- R. “Net Settlement Amount” means the amount from the Total Settlement Amount that is available for distribution as Settlement Shares to Class Members after deductions for (a) the LWDA Payment; (b) the Class Representative Payment; (c) the Class Counsel Fees and Expenses Payment; and (d) the Settlement Administrator’s fees and expenses.
- S. “Notice of Estimated Settlement Award” means the form that Class Members will receive that describes their estimated Settlement Shares, as evidenced by Exhibit B to this Agreement and incorporated by reference into this Agreement.
- T. “Participating Class Members” means all Class Members that do not timely and validly opt out of the Settlement.
- U. “Preliminary Approval of the Settlement” means the Superior Court’s preliminary approval of the Settlement without material change, or with material changes to the

Settlement to which the Parties both agree. An award by the Superior Court of lesser amounts than sought for the Class Representative Payment or Class Counsel Fees and Expenses Payment will not be considered a material change to the Settlement.

- V. “Settlement Administrator” means the administrator proposed by the Parties and appointed by the Superior Court to administer the Settlement.
- W. “Settlement Share” means the portion of the Net Settlement Amount allocable to each Class Member as provided by this Agreement.
- X. “Superior Court” means the Superior Court of California for the County of Alameda.
- Y. “Total Settlement Amount” means the total amount to be paid by Himagine as provided by this Agreement (not including employer-side payroll taxes, pursuant to Sections III.A, III.B.3, and III.E.10). The Total Settlement Amount is \$922,500.00 (Nine Hundred Twenty-Two Thousand Five Hundred Dollars), provided that the number of Class Members does not exceed 188. The Total Settlement Amount will cover: (a) all settlement payments to Class Members eligible for settlement payments; (b) the LWDA Payment; (c) Plaintiff’s Class Representative Payment; (d) the Class Counsel Fees and Expenses Payment (including all attorneys’ fees and expenses incurred to date and to be incurred in documenting the Settlement, securing trial and appellate court approval of the Settlement, and attending to the administration of the Settlement); and (e) the Settlement Administrator’s fees and expenses. To the extent the number of Class Members for any reason exceeds 188, the Total Settlement Amount will increase pursuant to section III.I.

III. SETTLEMENT TERMS AND CONDITIONS

- A. **Total Settlement Amount.** Subject to the terms and conditions of this Agreement, including but not limited to section III.I, the Total Settlement Amount is \$922,500.00 (Nine Hundred Twenty-Two Thousand Five Hundred Dollars). The Total Settlement Amount will cover: (a) all settlement payments to Participating Class Members eligible for settlement payments; (b) the LWDA Payment; (c) Plaintiff’s Class Representative Payment; (d) the Class Counsel’s Fees and Expense Payment; and (e) the Settlement Administrator’s fees and expenses. The entire \$922,500.00 Total Settlement Amount is non-reversionary. In accordance with Sections III.B.3 and III.E.10, the Total Settlement Amount does not cover employer-side payroll taxes that are triggered by payment of the unpaid wage portion of each Settlement Share. Himagine is responsible for such employer-side payroll taxes and must pay the amounts therefor to the Settlement Administrator in accordance with Sections III.B.3 and III.E.10 of this Agreement.

B. **Settlement Shares.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will allocate Settlement Shares from the Net Settlement Amount to Participating Class Members as follows:

1. **Calculation.** The Settlement Administrator will calculate each Participating Class Member's Settlement Share based on the following formula: Each Participating Class Member will receive a payment equal to the Net Settlement Amount times the ratio of (i) the number of workweeks worked by the Participating Class Member for Himagine in a position covered by the Settlement during the Covered Period ("Covered Workweeks") to (ii) the total number of Covered Workweeks worked by all Participating Class Members.

For purposes of the estimated Settlement Share reported to Class Members in the Notice of Estimated Settlement Award, the Settlement Administrator will calculate each Class Member's estimated Settlement Share assuming that no Class Members opt out of, or request exclusion from, the Settlement.

2. **Effect of Class Members Who Opt Out of Settlement.** A Class Member who timely and validly opts out of the Settlement by submitting an Exclusion Letter will not participate in or be bound by the Settlement; will not receive a Settlement Share; and will not be included with Participating Class Members for purposes of the calculation of Settlement Shares. The Settlement Share that otherwise would have been payable to such Class Member will be retained in the Net Settlement Amount for distribution to all Participating Class Members.

3. **Tax Treatment.** The Settlement Shares shall be reported to taxing authorities as follows:

- a. Twenty percent (20%) of each Settlement Share (the "Wage Portion") will be treated as a payment in settlement of the Participating Class Member's claims for unpaid wages. Accordingly, the Wage Portion will be reduced by applicable employee-side payroll tax withholding and deductions, and the Settlement Administrator will issue to the Participating Class Member a Form W-2 with respect to the Wage Portion. Himagine shall be responsible for employer-side payroll taxes that are triggered by payment of the Wage Portion of each Settlement Share for Participating Class Members. Participating Class Members shall be responsible for employee-side taxes and deductions that are triggered by payment of the Wage Portion of their Settlement Share.
- b. Eighty percent (80%) of each Settlement Share (the "Non-Wage Portion") will be treated as a payment in settlement of the Participating Class Member's claims for all unreimbursed business

expenses and penalties. Accordingly, the Non-Wage Portion will not be reduced by payroll tax withholding and deductions; and, instead, the Settlement Administrator will issue to the Participating Class Member a Form 1099 with respect to the Non-Wage Portion. Himagine is not responsible for employer-side payroll taxes with respect to the Non-Wage Portion, as no such payroll taxes are triggered by payment of the Non-Wage Portion of Settlement Shares for Participating Class Members.

C. Payments to Plaintiff, Class Counsel, LWDA, and Settlement Administrator. Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Total Settlement Amount as follows:

1. **To Plaintiff:** In addition to Plaintiff's Settlement Share, Plaintiff will apply to the Superior Court for an award of not more than \$15,000 as Plaintiff's Class Representative Payment in consideration of initiating and pursuing the *Hazel I* Action and the *Hazel II* Action, undertaking the risk of liability for attorneys' fees and expenses in the event he was unsuccessful in the prosecution of the *Hazel I* Action and the *Hazel II* Action, and granting the release provided for in section III.F.1 of this Agreement. Himagine will not oppose a Class Representative Payment of \$15,000 to Plaintiff. The Settlement Administrator will pay the Class Representative Payment approved by the Superior Court (but not more than \$15,000) out of the Total Settlement Amount. If the Superior Court approves a Class Representative Payment of less than \$15,000, the remainder will be retained in the Net Settlement Amount. Tax deductions and withholdings will not be taken from the Class Representative Payment, and instead a Form 1099 will be issued to Plaintiff with respect to this payment.
2. **To Class Counsel:** Class Counsel will apply to the Superior Court for an award of not more than \$307,500 for attorneys' fees (1/3 of the Total Settlement Amount) and not more than \$12,000 for expenses as their Class Counsel Fees and Expenses Payment, and Himagine will not oppose their request. If the Superior Court approves a Class Counsel Fees and Expenses Payment of less than the amount authorized to be sought under this Agreement, the remainder will be retained in the Net Settlement Amount. A Form 1099 will be issued with respect to the awarded attorneys' fees and costs, and Class Counsel beforehand will provide Himagine or the Settlement Administrator (as applicable) with a completed Form W-9.
3. **To LWDA.** The LWDA Payment of \$30,000 reflects the LWDA's share of the settlement of civil penalties paid under this Agreement pursuant to PAGA. The LWDA Payment represents 75% of the total amount attributable to PAGA penalties under the Settlement of \$40,000. This amount reflects the Parties' good-faith and reasonable assessment, for purposes of settlement, of the likelihood that a PAGA representative action would be maintained; that liability under PAGA would be established; and

the amount of penalties the Superior Court would award even if a PAGA representative action were maintained and liability were found. If the Superior Court approves an LWDA Payment of less than \$30,000, the remainder will be retained in the Net Settlement Amount.

4. **To the Settlement Administrator.** The Settlement Administrator will pay to itself out of the Total Settlement Amount its reasonable fees and expenses as approved by the Superior Court. It is projected that these fees and expenses shall not exceed \$5,600.

D. **Appointment of Settlement Administrator.** The Parties will ask the Superior Court to appoint Simpluris, Inc. to act as Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator's duties will include preparing, printing, mailing, and emailing the Class Notice Packet to the Class Members; conducting a National Change of Address search and using Accurant and other reasonable and cost-effective skip trace methods to locate any Class Member whose Class Notice Packet was returned by the U.S. Postal Service as non-deliverable, and re-mailing the Class Notice Packet to the Class Member's new address; receiving Class Member objections and opt-outs from the Settlement; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Class Member opt-outs from the Settlement; calculating Settlement Shares; calculating the amounts of employer-side payroll taxes and employee-side taxes and deductions; issuing the checks to effectuate the payments due under the Settlement; preparing Form W-2s and Form 1099s and completing required report to tax authorities; and otherwise administering the Settlement pursuant to this Agreement. The Settlement Administrator's reasonable fees and expenses, including the cost of printing and mailing the Class Notice Packet, will be paid out of the Total Settlement Amount.

E. **Procedure for Approving Settlement.**

1. **Motion for Preliminary Approval.**

- a. Plaintiff will file a motion (the "Motion for Preliminary Approval") with the Superior Court for an order granting Preliminary Approval of the Settlement, conditionally certifying the Class, setting a date for the Final Approval Hearing, and approving and authorizing the dissemination of the Class Notice and the Notice of Estimated Settlement Award. Class Counsel will provide Himagine's Counsel with drafts of the Motion for Preliminary Approval and the memorandum of points and authorities in support thereof at least three (3) business days prior to their filing, and the Motion for Preliminary Approval shall be unopposed, as long as the Parties agree on the content.

- b. Pursuant to PAGA, on the date Plaintiff files the Motion for Preliminary Approval with the Superior Court, Plaintiff will submit to the LWDA the Motion for Preliminary Approval and the Settlement. The Parties intend and believe that providing notice of this Settlement to the LWDA pursuant to the procedures described in this section complies with the requirements of PAGA, and will request that the Superior Court grant approval of the Settlement with respect to the settled PAGA claims.
 - c. At the hearing on the Motion for Preliminary Approval, the Parties will jointly appear, support the granting of the motion, and submit an order granting the motion in the form evidenced by Exhibit C to this Agreement.
 - d. Should the Superior Court decline to preliminarily approve all material aspects of the Settlement, or order material changes to the Settlement to which the Parties do not agree, the Settlement will be null and void and the Parties will have no further obligations under it. An award by the Court of lesser amounts than sought for the Class Representative Payment or the Class Counsel Fees and Expenses Payment will not be a material modification of the Settlement.
2. **Notice to Class Members.** After the Superior Court enters its order granting Preliminary Approval of the Settlement, every Class Member will be provided with the Class Notice Packet (which will include the Class Notice completed to reflect the order granting Preliminary Approval of the Settlement, and the Notice of Estimated Settlement Award) as follows:
- a. Within twenty-five (25) days after the Superior Court enters its order granting Preliminary Approval of the Settlement, Himage will provide to the Settlement Administrator the following information for each Class Member: name, last known address and telephone number, last known personal email address, Social Security number, and his or her number of Covered Workweeks. The Covered Workweek totals and last four digits of each Class Member's SSN will be contemporaneously produced to counsel for Plaintiff. If any or all of the Class Members' data are unavailable to Himage, Himage will use best efforts to deduce or reconstruct the Class Members' data prior to when it must be submitted to the Settlement Administrator; approximations or averages may be used. This information will otherwise remain confidential and will not be disclosed to anyone, except in order to carry out the efforts described in section III.B and to disseminate the Class Notice Packet pursuant to this Agreement, or pursuant to Himage's express written authorization or by order of the Superior Court.

- b. Within five (5) days after receiving the Class Member information from HImagine, the Settlement Administrator will send to each Class Member the Class Notice Packet via First Class U.S. Mail and via email. In the event of returned or non-deliverable Class Notice Packets sent via U.S. Mail, the Settlement Administrator will make reasonable efforts to locate Class Members and re-send the notices. Prior to the initial mailing, the Settlement Administrator will check the addresses provided by HImagine through the National Change of Address System. Prior to the initial mailing, the Settlement Administrator will provide to counsel for all Parties its payment calculations for Class Members with anonymized employee identification numbers (e.g., last four digits of each Class Member's SSN) and obtain approval of the calculations from counsel for all Parties. The Settlement Administrator will mail the Class Notice Packet to all identified Class Members, and email the Class Notice Packet to all identified Class Members for whom HImagine provides a personal email address.
- c. If a Class Notice Packet sent via U.S. Mail is returned because of an incorrect address and no forwarding address is affixed thereto, the Settlement Administrator will promptly, and not later than five (5) business days from receipt of the returned packet, search for a more current address for the Class Member using a skip trace, and re-mail the Class Notice Packet to the Class Member. The Settlement Administrator will use the Class Members' data and otherwise work with HImagine to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, court orders, and fee, as agreed to with Class Counsel and according to the following deadlines, to trace the mailing address of any Class Member for whom a Class Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps will include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address; and promptly re-mailing to Class Members for whom new addresses are found. If the Class Notice Packet is re-mailed, the Settlement Administrator will note for its own records and notify Class Counsel and HImagine's Counsel of the date and address of each such re-mailing as part of a weekly status report provided to the Parties. Class Counsel and HImagine's Counsel will be entitled to receive from the Settlement Administrator any updated address information about a Class Member as the Settlement Administrator obtains such information.
- d. Each week, the Settlement Administrator will provide to Class Counsel and HImagine's Counsel a report showing whether any

Class Notice Packets have been returned and re-mailed and the receipt of any opt-outs and/or objections to the Settlement.

- e. In connection with the filing of Plaintiff's motion for final approval of the Settlement, the Settlement Administrator will prepare, and Plaintiff will file with the Superior Court, a declaration of due diligence setting forth its compliance with its obligations under this Agreement. Prior to the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

3. **Objections to Settlement; Opt-outs from Settlement.** Class Members may submit objections to the Settlement or opt out of the Settlement pursuant to the following procedures:

- a. **Objections to Settlement.** Class Members who wish to object to any term of the Settlement must mail his or her objection to the Settlement Administrator not later than 45 days after notice of the Settlement was sent via U.S. Mail. The Settlement Administrator shall, within two (2) business days of receipt, serve any objection(s) as received on Class Counsel and Himagine's Counsel, who shall then promptly file all such objections with the Court. Himagine's Counsel and Class Counsel shall file and serve any responses to objections no later than five (5) calendar days prior to the Final Approval hearing. To be valid, any objection must: (1) contain the objecting Class Member's full name, current address, and telephone number, as well as contact information for any attorney representing the objecting 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 supporting the objection; and (4) be postmarked no later than forty-five (45) days after the Settlement Administrator originally sends the Class Notice Packets via U.S. Mail. The objection also will indicate whether the Class Member intends to appear at the Final Approval Hearing. Class Members who do not submit written objections in the manner and by the deadline specified above will be deemed to have waived any objections and will be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement or other related matters.
- b. **Request for Exclusion.** The Class Notice will provide that Class Members may exclude themselves from the Settlement by mailing to the Settlement Administrator a signed Exclusion Letter, postmarked no later than 45 days after the Settlement Administrator originally sends the Class Notice Packets via U.S. Mail. If a

question is raised about the authenticity of an Exclusion Letter, the Settlement Administrator will have the right to demand additional proof of the Class Member's identity. A Class Member who timely submits a valid Exclusion Letter will not participate in or be bound by the Settlement and the Judgment, will not be entitled to any payment from the Settlement, and will not have any right to object to, appeal from, or comment on the Settlement. A Class Member who does not complete and mail a valid Exclusion Letter in Settlement in the manner and by the deadline specified above will automatically be bound by all terms and conditions of the Settlement, including its release of claims, if the Settlement is approved by the Court, and by the Judgment.

- c. **Report.** Not later than ten (10) days after the deadline for submission of opt-outs to the Settlement, the Settlement Administrator will provide the Parties with a complete and accurate list of objections and opt-outs submitted by Class Members.

- 4. **Resolution of Disputes.** If a Class Member disputes the Covered Workweeks shown on his or her Notice of Estimated Settlement Award, the Class Member must submit a dispute to the Settlement Administrator by returning the Notice of Estimated Settlement Award with the information that he or she contends is correct and including with the sheet any documentation the Class Member has to support his or her contention. Any such dispute must be postmarked no later than forty-five (45) days after the Settlement Administrator originally sends the Class Notice Packets via U.S. Mail. In the event of such a dispute, Himage will have the right to review its payroll and personnel records to verify the correct information. Unless the Class Member presents convincing evidence proving that he or she worked more Covered Workweeks than shown by Himage's records, the Class Member will be paid based on Himage's records. The Settlement Administrator shall notify counsel for the Parties of any disputes. The Parties shall meet and confer in an effort to resolve any disputes, and shall notify the Settlement Administrator of their decision. If a dispute cannot be resolved, it shall be presented to the Court for resolution. To the extent that an individual who was not included on the list of Class Members that Himage provided to the Settlement Administrator self-identifies as a Class Member, such individual must present evidence to the Settlement Administrator establishing the Covered Workweeks that he or she contends to have worked for Himage as a Class Member no later than forty-five (45) days after the Settlement Administrator originally sends the Class Notice Packets via U.S. Mail, and the individual's claim will be resolved pursuant to the dispute procedure set forth in this paragraph. The resolution of disputes pursuant to the dispute procedure set forth in this paragraph will be final, binding on the Parties and the Class Member, and non-appealable.

5. **No Solicitation of Objection, Appeal, or Opt-Out.** Neither the Parties nor their respective counsel will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, appeal from the Judgment, or opt out of the Settlement.
6. **Right of Himagine to Reject Settlement.** If five percent (5%) or more of Class Members, or a number of Class Members whose Settlement Shares would be worth five percent (5%) or more of the Net Settlement Amount as calculated, timely submit valid Exclusion Letters, Himagine will have the right to rescind the Settlement, and the Settlement and all actions taken in furtherance of it will be null and void. Himagine must exercise this right within fifteen (15) days after the Settlement Administrator notifies the Parties of the number of opt-outs, which the Settlement Administrator will do within ten (10) days after the deadline for submission of Exclusion Letters. If Himagine exercises the right to rescind, it will be responsible for the costs of administration of the Settlement incurred through that time. If Himagine does not exercise the right to rescind, Plaintiff will move for final approval of the Settlement and for an award of the Class Representative Payment and the Class Counsel Fees and Expenses Payment pursuant to the Settlement, which Himagine will not oppose.
7. **Additional Briefing and Final Approval.**
 - a. Not later than sixteen (16) court days before the Final Approval Hearing, Plaintiff will file with the Superior Court a motion for final approval of the Settlement, the LWDA Payment, and payment of the Settlement Administrator's reasonable fees and expenses (the "Motion for Final Approval"). Plaintiff will also move for awards of the Class Representative Payment and the Class Counsel Fees and Expenses Payment pursuant to this Settlement, either as part of the Motion for Final Approval or via separate motion. Class Counsel will provide Himagine's Counsel with drafts of the Motion for Final Approval and the memorandum of points and authorities in support thereof at least three (3) business days prior to their filing, and the Motion for Final Approval shall be unopposed, as long as the Parties agree on the content.
 - b. Not later than five (5) days before the Final Approval Hearing, Plaintiff and/or the Parties jointly may file a reply in support of the motion for final approval of the Settlement to the extent that any opposition to the motion is filed.
 - c. If the Superior Court does not grant final approval of the Settlement, or if the Court's final approval of the Settlement is reversed or materially modified on appellate review, then this Settlement will be null and void; if that occurs, the Parties will have no further obligations under the Settlement, including any obligation by

Himagine to pay the Total Settlement Amount, except that Himagine will pay the Settlement Administrator's reasonable fees and expenses incurred as of the date that the Settlement is deemed null and void. An award by the Court of lesser amounts than sought for the Class Representative Payment or Class Counsel Fees and Expenses Payment will not constitute a material modification of the Settlement; although Plaintiff maintains the right to appeal any such reduction. In the event that the Superior Court awards a lesser-than-sought Class Representative Payment or Class Counsel Fees and Expenses Payment, the difference between the amounts awarded and sought will not revert back to Himagine, but will revert to the Net Settlement Amount.

- d. Together with the Motion for Final Approval, Plaintiff will present a proposed Judgment to the Superior Court for its approval and entry, in substantially the form evidenced by Exhibit D to this Agreement. After entry of the Judgment, the Superior Court will have continuing jurisdiction over the Settlement solely for purposes of (1) enforcing this Agreement, (2) addressing settlement administration matters, and (3) addressing such post-judgment matters as may be appropriate under court rules or applicable law.
8. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the material terms of this Agreement, Plaintiff, Participating Class Members, Himagine, and their respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, a motion for new trial, and any extraordinary writ, and the Judgment therefore will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings, or to file a cross-appeal. This paragraph does not preclude Plaintiff or Class Counsel from appealing from a refusal by the Superior Court to award the full Class Representative Payment or the Class Counsel Fees and Expenses Payment sought by them; however, such an order or affirmance of such an order will not entitle Plaintiff, Participating Class Members, or Himagine to avoid the Settlement. If an appeal is taken from the Judgment, the time for consummating the Settlement (including making payments under the Settlement) will be suspended until such time as the appeal is finally resolved and the Judgment becomes Final, as defined in this Agreement.
 9. **Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.** If, after a notice of appeal or a petition for *certiorari* or review, or any other motion, petition, or application, the reviewing court vacates, reverses, or modifies the Judgment such that there is a material change to the Settlement, and that court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher court, then either

Plaintiff or Himage will have the right to void the Settlement, which the Party must do by giving written notice to the other Parties, the reviewing court, and the Superior Court not later than thirty (30) days after the reviewing court's decision vacating, reversing, or materially modifying the Judgment becomes Final. A vacation, reversal, or modification of the Superior Court's award of the Class Representative Payment or the Class Counsel Fees and Expenses Payment will not constitute a vacating, reversal, or material modification of the Judgment within the meaning of this paragraph.

10. **Timing of Settlement Payments.** Within three (3) days after the Settlement becomes Final, as defined in this Agreement, the Settlement Administrator will provide Himage with (1) wire transfer information and (2) calculations of the amount(s) of employer-side payroll taxes to be paid by Himage pursuant to this Agreement. Within twenty (20) days after the Settlement Administrator provides Himage with wire transfer information, Himage will transfer the Total Settlement Amount plus the required amount of employer-side payroll taxes to the Settlement Administrator via wire transfer. Within ten (10) days thereafter, the Settlement Administrator will pay to Participating Class Members the Settlement Shares; to Plaintiff, the Class Representative Payment; to the LWDA, the LWDA Payment; to Class Counsel, the Class Counsel Fees and Expenses Payment; and to the Settlement Administrator, its reasonable fees and expenses.
11. **Uncashed Settlement Share Checks.** A Participating Class Member must cash his or her Settlement Share check within one hundred and eighty (180) calendar days after it is mailed to him or her. If a check is returned to the Settlement Administrator, the Settlement Administrator will make all reasonable efforts to re-mail it to the Participating Class Member at his or her correct address. If any Participating Class Member's Settlement Share check is not cashed within one hundred and twenty (120) days after its last mailing to the Participating Class Member, the Settlement Administrator will send the Participating Class Member a letter or postcard informing him or her that unless the check is cashed in the next sixty (60) days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If a Participating Class Member fails to cash the check for his or her Settlement Share within one hundred and eighty (180) days after it is mailed to him or her, the Settlement Administrator will distribute the funds to the Participating Class Members who cashed their checks using the same distribution formula. In the event of a redistribution of funds from uncashed checks, the additional settlement administration costs and any additional employer-side payroll taxes related to the redistribution will be paid from the total amount of uncashed checks prior to the redistribution. If the average net recovery from the redistribution is less than \$10 per Participating Class Member, or if there are uncashed funds remaining from redistribution described in this paragraph, the Settlement

Administrator will deposit such funds into a *cy pres* recipient jointly selected by the Parties and approved by the Superior Court. The Parties propose Legal Aid at Work as the *cy pres* recipient.

F. Release and Waiver of Claims.

1. **Plaintiff.** In consideration of Plaintiff's awarded Class Representative Payment, Plaintiff's Settlement Share, and the other terms and conditions of the Settlement, as of the date the Settlement becomes Final, Plaintiff releases any and all known and unknown claims against Himagine and any present and former parents, subsidiaries and affiliated companies or entities, including but not limited to RCM Equity LLC, RCM Intermediate Holdings, Inc., and RCM Acquisition, Inc., and their respective officers, directors, employees, partners, shareholders and agents, and any other successors, assigns and legal representatives and related persons and entities ("Released Parties"), including any and all known and unknown claims that arise out of or relate to the allegations in the Action, as well as attorneys' fees and costs, and waives the protection of California Civil Code section 1542 with respect to claims encompassed in this release ("Plaintiff's Released Claims").
2. **Participating Class Members.** In consideration for their awarded Settlement Shares, as of the date the Settlement becomes Final, all Participating Class Members release any and all known and unknown claims against Himagine and the Released Parties based on the facts alleged in the operative complaint, from November 1, 2015 through the date on which the Court grants Preliminary Approval of the Settlement, including that Himagine failed to pay for all hours worked; pay minimum wages or overtime compensation; provide meal and rest periods; reimburse or indemnify employees for necessary business expenses; provide accurate itemized wage statements; and pay all wages due to discharged and quitting employees. The released claims include but are not limited to such claims brought under California Labor Code sections 201, 202, 203, 204, 205, 226, 226.3, 226.7, 256, 510, 512, 1174(d), 1182.11, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, California Business and Professions Code sections 17200-17208, the Industrial Welfare Commission Wage Orders, and the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.* Such claims include claims for wages, statutory penalties, civil penalties, or other relief under the California Labor Code and any other related state or municipal law, relief from unfair competition under California Business and Professions Code section 17200 *et seq.*; attorneys' fees and costs; and interest.
3. **Class Counsel.** Class Counsel will not seek or be entitled to any attorneys' fees and/or expenses other than those specified in this Agreement.

4. **Waiver of Rights under California Civil Code Section 1542.** Plaintiff's Released Claims as provided for in section III.F.1 include all such respective claims, whether known or unknown by the releasing party. Thus, even if Plaintiff discovers facts in addition to or different from those that he now knows or believes to be true with respect to the subject matter of his respective Plaintiff's Released Claims, those claims will remain released and forever barred. Therefore, with respect only to those respective released claims, Plaintiff expressly waives and relinquish the provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

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.

- G. **No Effect on Other Benefits.** The Net Settlement Shares will not result in any additional benefit payments (such as 401(k) or bonus) beyond those provided by this Agreement to Plaintiff or Participating Class Members, and Plaintiff and Participating Class Members will be deemed to have waived all such claims, whether known or unknown by them, as part of their release of claims under this Agreement.
- H. **Confidentiality Preceding Preliminary Approval.** Neither Plaintiff nor his attorneys will issue any press or other media releases or talk to the press or media regarding the Settlement, and Plaintiff's attorneys will not publicize the Settlement on their website or social media. In addition, prior to filing of the Motion for Preliminary Approval, Plaintiff and his attorneys will not have any communication with anyone other than family members, clients, Class Members, financial advisors, retained experts, and vendors related to settlement administration, regarding the Settlement. If, before the filing of the Motion for Preliminary Approval, Plaintiff or his attorneys disclose to any unauthorized party (a) that a settlement has been reached or (b) any of the terms of the Settlement except as required by law or to effect the Settlement, Himagine may rescind the Settlement, rendering it null and void.
- I. **Unanticipated Increase in Class Size.** If the number of Class Members covered by this Settlement is greater than 188, the Total Settlement Amount will increase on a *pro rata* basis equal to the number of Covered Workweeks worked by those additional Class Members in excess of 188, compared to the number of Covered Workweeks worked by the initial 188 Class Members.

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J. Miscellaneous Terms.

1. No Admission of Liability.

- a. Himagine denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the *Hazel I* Action and/or the *Hazel II* Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by Himagine, or an admission by Plaintiff that any of his claims were non-meritorious or any defense asserted by Himagine was meritorious. This Settlement and the fact that Plaintiff and Himagine were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with the Settlement).
- b. The Parties agree that the Motion for Preliminary Approval seeking, *inter alia*, certification of a class is for purposes of the Settlement only and if, for any reason, the Settlement is not approved, the certification will have no force or effect and will be immediately revoked. The Parties further agree that certification for purposes of the Settlement is in no way an admission that class certification is proper under the more stringent standard applied for litigation purposes and that this Settlement will not be admissible in these or any other proceedings as evidence that (a) a class should be certified or (b) Himagine is liable to Plaintiff or the Class.
- c. Whether or not the Judgment becomes Final, nothing in the Settlement, this Agreement, any document, statement, proceeding or conduct related to the Settlement or the Agreement, or any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Himagine or the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement.
- d. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may be admitted in evidence and otherwise used in any and all proceedings

to enforce any or all terms of this Agreement, or in defense of any claims released or barred by this Agreement.

2. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits. However, the Settlement Term Sheet and Agreement may be introduced into evidence to prove the fact and terms of the Parties' Settlement.
3. **Modification of Agreement.** This Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their successors-in-interest, or by counsel for all Parties or their successors-in-interest.
4. **Failure to Fund Settlement.** If Himage fails to fund the Settlement after the Effective Date pursuant to the terms of this Agreement, the Settlement shall be null and void *ab initio*, the release of claims by Plaintiff and Participating Class Members shall be without effect, and any order or judgment entered by the Court in furtherance of this Settlement shall be treated as withdrawn or vacated by stipulation of the Parties.
5. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
6. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California, without giving effect to any conflict of law principles or choice of law principles.
7. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
8. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Actions and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
9. **Authority to Act for Plaintiff.** Counsel for Plaintiff represent that they have full authority to accept this Agreement on behalf of Plaintiff and to bind Plaintiff to all of its terms and conditions.

10. **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
11. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiff and the Class:

Carolyn Hunt Cottrell
David C. Leimbach
Scott L. Gordon
Schneider Wallace Cottrell Konecky
LLP
2000 Powell Street, Suite 1400
Emeryville, California 94608
Telephone: (415) 421-7100
Facsimile: (415) 421-7105
ccottrell@schneiderwallace.com
dleimbach@schneiderwallace.com
sgordon@schneiderwallace.com

Alan L. Quiles
Shavitz Law Group, P.A.
951 Yamato Road, Suite 285
Boca Raton, Florida 33431
Telephone: (561) 447-8888
Facsimile: (561) 447-8831
aquiles@shavitzlaw.com

To HIMAGINE SOLUTIONS, INC.:

Zachary P. Hutton
Anna M. Skaggs
Paul Hastings LLP
101 California Street, 48th Floor
San Francisco, California 94111
Telephone: (415) 856-7000
Facsimile: (415) 856-7100
zachhutton@paulhastings.com
annaskaggs@paulhastings.com

Emily R. Pidot
Paul Hastings LLP
200 Park Avenue
New York, New York 10166
Telephone: (212) 318-6000
Facsimile: (212) 319-4090
emilypidot@paulhastings.com

12. **Invalidity of Any Provision.** The Parties request that before declaring any provision of this Agreement invalid, the Court shall first attempt to construe all provisions as valid to the fullest extent possible consistent with applicable precedents.
13. **Execution in Counterpart.** This Agreement may be executed in one or more counterparts. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves original signed counterparts. Facsimile signatures will be accepted if the original signature is provided within seven days. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

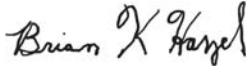
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IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

02 / 03 / 2021
Dated: _____

BRIAN HAZEL


02 / 03 / 2021
Dated: _____

CAROLYN HUNT COTTRELL
SCHNEIDER WALLACE COTTRELL
KONECKY LLP

By: _____
Carolyn Hunt Cottrell
Attorneys for Plaintiff Brian Hazel

02 / 03 / 2021
Dated: _____

SHAVITZ LAW GROUP, P.A.

By: _____
Alan L. Quiles
Attorneys for Plaintiff Brian Hazel

Dated: _____

HIMAGINE SOLUTIONS, INC.
By: _____
Michael DiMarco
Himagine Solutions, Inc.

Dated: _____

PAUL HASTINGS LLP
By: _____
Zachary Hutton
Attorney for Defendant
Himagine Solutions, Inc.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

BRIAN HAZEL

Dated: _____

CAROLYN HUNT COTTRELL
SCHNEIDER WALLACE COTTRELL
KONECKY LLP

Dated: _____

By: _____

Carolyn Hunt Cottrell
Attorneys for Plaintiff Brian Hazel

SHAVITZ LAW GROUP, P.A.

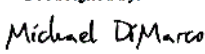
Dated: _____

By: _____

Alan L. Quiles
Attorneys for Plaintiff Brian Hazel

HIMAGINE SOLUTIONS, INC.

Dated: 2/2/2021

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By: _____
C305DB532D564DA...
Michael DiMarco
Himagine Solutions, Inc.

PAUL HASTINGS LLP

Dated: 2/2/2021

DocuSigned by:

By: _____
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Zachary Hutton
Attorney for Defendant
Himagine Solutions, Inc.

EXHIBIT A

**[NOTICE OF PROPOSED SETTLEMENT, CONDITIONAL CERTIFICATION OF
SETTLEMENT CLASS, PRELIMINARY APPROVAL OF SETTLEMENT, AND
HEARING DATE FOR FINAL COURT APPROVAL]**

Exhibit A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND FINAL APPROVAL HEARING

To: All current and former employees of Himage Solutions, Inc. (“Himage”) who worked in a non-exempt Coder Position (Coder Inpatient, Coder In/Outpatient, Coder Physician, Coder Outpatient PT, Coder ER PT, Coder ER, Coder Outpatient, Associate Coder - Acute Care, Coder HCC, Coder Inpatient PT, Coder Ancillary PT, Coder Physician PT, Coder Ancillary, and Coder In/Outpatient PT) while residing in the State of California, at any time from November 1, 2015 through [date of preliminary approval].

PLEASE READ THIS NOTICE CAREFULLY

IT MAY AFFECT YOUR LEGAL RIGHTS TO MONEY YOU MAY BE OWED IN CONNECTION WITH YOUR EMPLOYMENT BY HIMAGINE.

Pursuant to the Order of the Superior Court of the State of California for the County of Alameda (the “Court”) entered on [date of preliminary approval], you are hereby notified as follows:

WHAT IS THIS NOTICE ABOUT?

A proposed settlement (the “Settlement”) has been reached between plaintiff Brian Hazel, (“Plaintiff”) and defendant Himage Solutions, Inc. (“Himage”), in the class action pending in the Court (the “Action”), covering the following individuals (the “Class”):

All current and former employees who worked for Himage in a non-exempt Coder Position (Coder Inpatient, Coder In/Outpatient, Coder Physician, Coder Outpatient PT, Coder ER PT, Coder ER, Coder Outpatient, Associate Coder - Acute Care, Coder HCC, Coder Inpatient PT, Coder Ancillary PT, Coder Physician PT, Coder Ancillary, and Coder In/Outpatient PT) while residing in the State of California, at any time from November 1, 2015 through [date of preliminary approval].

The Court has preliminarily approved the Settlement and conditionally certified the Class for purposes of the Settlement only. You have received this notice because Himage’s records indicate that you are a member of the Class. This notice is designed to inform you of how you can object to the Settlement, opt out of the Settlement, or provide corrected information to the Settlement Administrator. Unless you opt out of the Settlement, you will receive a payment under the Settlement and the Settlement will be binding upon you if it is finally approved by the Court.

WHAT IS THIS LAWSUIT ABOUT?

The Action, which is currently pending in the Superior Court of California, County of Alameda, is titled “*BRIAN HAZEL on behalf of the State of California, and on behalf of himself and all others similarly situated, Plaintiff, vs. HIMAGINE SOLUTIONS, INC., and DOES 1-100, inclusive, Defendants,*” No. RG20068159 (the “Action”).

In this Action, Plaintiff alleges that Himage failed to pay for all hours worked; pay minimum wages for all hours worked; pay overtime wages; reimburse necessary business expenditures; provide accurate itemized wage statements; timely pay all wages due at the time of separation; and engaged in unlawful business practices. Himage denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, or has any liability to anyone under the claims.

After good-faith negotiations, the Plaintiff and Himage reached an agreement to settle the Action. The parties and their counsel have concluded that the Settlement is advantageous, considering the risks and uncertainties to each side of continued litigation. The parties and their counsel have determined that the Settlement is fair, reasonable, and adequate and in the best interests of the members of the Class. The Court has also preliminarily determined that the Settlement is fair, reasonable, and adequate and in the best interests of the members of the Class, and will make its final determination in the near future.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Himage that Plaintiff's claims in the Action have merit or that it has any liability to Plaintiff or the proposed Class on those claims. On the contrary, Himage denies any and all such liability, and maintains that it complied with all applicable laws.

SUMMARY OF THE SETTLEMENT

WHO IS INCLUDED IN THE SETTLEMENT?

You are included in the Settlement if you fall within the following definition:

All current and former employees who worked for Himage in a non-exempt Coder Position (Coder Inpatient, Coder In/Outpatient, Coder Physician, Coder Outpatient PT, Coder ER PT, Coder ER, Coder Outpatient, Associate Coder - Acute Care, Coder HCC, Coder Inpatient PT, Coder Ancillary PT, Coder Physician PT, Coder Ancillary, and Coder In/Outpatient PT) while residing in the State of California, at any time from November 1, 2015 through [date of preliminary approval].

WHAT WILL I RECEIVE FROM THE SETTLEMENT?

1. **Please see the attached Notice of Estimated Settlement Award for your estimated Settlement Share and your Covered Workweeks.**
2. Himage will pay \$922,500.00 as the Total Settlement Amount. The Total Settlement Amount will fund all payments to be made under the Settlement (except for employer-side payroll taxes and withholdings).
3. Certain deductions will be made from the Total Settlement Amount, as follows:

- a. The Court has tentatively approved a payment of \$[insert amount] to the Settlement Administrator, [insert name of SA], for the costs incurred in notifying the Class Members, administering the Settlement, and issuing payments.
 - b. Class Counsel will also ask the Court at the final approval hearing to approve a Class Representative Payment in the amount of \$15,000 to the Named Plaintiff, Brian Hazel, for acting as the representative on behalf of the Class Members and spending time assisting with the Action, which was not required of other Class Members, and for a release of all claims not otherwise alleged in the Action.
 - c. Class Counsel will ask the Court at the final approval hearing to approve a Class Counsel Fees and Expenses Payment not to exceed one-third of the Total Settlement Amount, or \$307,500, plus reimbursement of the reasonable litigation expenses Class Counsel has incurred in an amount not to exceed \$[insert amount]. Class Counsel has litigated the lawsuit on behalf of the Class Members on a contingency fee basis (that is, without being paid to date) while advancing litigation costs and expenses. The Class Counsel Fees and Expenses Payment will fully compensate Class Counsel for all legal fees and expenses incurred in the prosecuting the Action, including any work they do in the future. Class Counsel's out-of-pocket expenses that are reimbursable under the Class Counsel Fees and Expenses Payment are capped at, and shall not exceed, \$[insert amount]. Class Members are not personally responsible for any fees or expenses.
 - d. The parties agree that \$40,000.00 is designated for California Labor Code Private Attorneys General Act of 2004 ("PAGA") penalties, and that, under the PAGA rules, 75% of that amount or \$30,000 shall be paid to California's Labor and Workforce Development Agency to pay the government portion of penalties allocated under PAGA. The remainder will be added to the amount to be distributed to the Class Members.
4. The balance of the Total Settlement Amount after the deductions described above is the "Net Settlement Amount." The Net Settlement Amount is estimated to be \$[insert amount].
5. Out of the Net Settlement Amount, Himage will pay a Settlement Share to each Class Member who does not timely submit a valid and timely Exclusion Letter ("Participating Class Members").
6. The Settlement Administrator will calculate each Participating Class Member's Settlement Share based on the following formula: Each Participating Class Member will receive a payment equal to the Net Settlement Amount times the ratio of (i) the number of workweeks worked by the Participating Class Member for Himage in a position covered by the Settlement during the Covered Period ("Covered Workweeks") to (ii) the total number of workweeks worked by all such Participating Class Members for Himage in a position covered by the Settlement during the period of time from November 1, 2015 through [date of preliminary approval] (the "Covered Period").
7. The Settlement Share for a Participating Class Member will depend on the number of workweeks the Participating Class Member worked in a position covered by the Settlement

during the Covered Period (if any), and the amounts awarded by the Court for the payments to Plaintiff, Class Counsel, the LWDA, and the Settlement Administrator.

8. An approximation of your Settlement Share appears on your Notice of Estimated Settlement Award accompanying this Notice. This is just an estimate, and your actual Settlement Share may be more or less when it is awarded. The Settlement Shares and other amounts awarded by the Court will be paid after final court approval of the Settlement, entry of the final judgment, and the exhaustion of all rights to appeal or review, or after any appeal or review has been resolved in favor of the Settlement.
9. For tax purposes, 20% of the Settlement Share payments will be allocated to claims for unpaid wages, and therefore will be reduced by applicable employee-side payroll tax withholding and deductions. This portion of your Settlement Share payment will be reported on an IRS Form W-2. The remaining 80% of the Settlement Share payments will be allocated to claims for unreimbursed expenses, and penalties, which will be paid without withholding any amount. This portion of your Settlement Share payment will be reported on an IRS Form 1099. You should consult with your tax advisors concerning the tax consequences of the payment you receive under the Settlement.

WHAT CLAIMS ARE BEING RELEASED AS PART OF THE SETTLEMENT?

1. **Participating Class Members.** In consideration for their awarded Settlement Shares, as of the date the Settlement becomes Final, all Participating Class Members release any and all known and unknown claims against Himagine and the Released Parties based on the facts alleged in the operative complaint, from November 1, 2015 through [date of preliminary approval], including that Himagine failed to pay for all hours worked; pay minimum wages or overtime compensation; provide meal and rest periods; reimburse or indemnify employees for necessary business expenses; provide accurate itemized wage statements; and pay all wages due to discharged and quitting employees. The released claims include but are not limited to such claims brought under California Labor Code sections 201, 202, 203, 204, 205, 226, 226.3, 226.7, 256, 510, 512, 1174(d), 1182.11, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, California Business and Professions Code sections 17200-17208, the Industrial Welfare Commission Wage Orders, and the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.* Such claims include claims for wages, statutory penalties, civil penalties, or other relief under the California Labor Code and any other related state or municipal law, relief from unfair competition under California Business and Professions Code section 17200 *et seq.*; attorneys' fees and costs; and interest.
2. **Plaintiff's and Class Counsel's Support of the Settlement:** Plaintiff as Class Representative and Class Counsel support the Settlement. Their reasons include the risk of a trial on the merits, the inherent delays and uncertainties associated with litigation, and the possibility that the Class is not entitled to any recovery. Based on their experience litigating similar cases, Class Counsel believe that further proceedings in this case, including a trial and probable appeals, would be very expensive and protracted. No one can confidently predict how the various legal questions at issue, including the amount of damages, would ultimately be resolved. Therefore, upon careful consideration of all of the

facts and circumstances of this case, Class Counsel believe that the Settlement is fair, reasonable, and adequate.

WHAT ARE MY RIGHTS AND OPTIONS AS A CLASS MEMBER?

1. **Option 1: Do nothing.** Unless you opt out of the Settlement, you will be a Participating Class Member, you will receive your Settlement Share payment, you will be bound by the terms of the Settlement and any final judgment that may be entered by the Court, and you will be deemed to have released the claims against Himagine and the other Released Parties described above, if the Settlement is finally approved by the Court. Plaintiff as Class Representative and Class Counsel will represent your interests as a Participating Class Member. As a Participating Class Member, you will not be responsible for the payment of attorneys' fees or reimbursement of litigation expenses unless you retain your own counsel, in which event you will be responsible for your own attorneys' fees and expenses.
2. **Option 2: Update your contact information and/or dispute your Covered Workweeks.** The enclosed Notice of Estimated Settlement Award provides (1) the number of Covered Workweeks on which your Settlement Share will be calculated, and (2) an estimate of your Settlement Share assuming that all Class Members participate and all payment amounts are awarded by the Court as requested (your actual Settlement Share may be more or less). If the information in the Notice of Estimated Settlement Award (including your mailing address) is correct, you need not return the form.

If you wish to update your name or address information, fill in your updated information and return the form.

If you dispute the number of Covered Workweeks shown on your enclosed Notice of Estimated Settlement Award, you must fill out your Notice of Estimated Settlement Award with the information you contend is correct, and send the completed form and any documentation you have to support your contention to the Settlement Administrator. Unless you present convincing evidence proving you worked more Covered Workweeks than shown by official records, you will be paid based on Himagine's records. The Settlement Administrator will notify Class Counsel and Himagine's Counsel, and they will attempt to resolve the dispute. If the dispute cannot be resolved, it will be presented to the Court for a resolution. The resolution of disputes pursuant to this process will be final, binding on you and Himagine, and non-appealable.

Any correction and/or dispute must be completed, signed by you, and returned to the Settlement Administrator, **postmarked by not later than [45 DAYS AFTER MAILING OF CLASS NOTICE VIA U.S. MAIL]**. Corrections and disputes must be mailed to **[INSERT ADDRESS]**. It is your obligation to keep the Settlement Administrator informed of any changes in your mailing address until your Settlement Share is received, should final approval of the Settlement be granted. Failing to provide the Settlement Administrator with any change of your mailing address may prevent you from receiving your Settlement Share.

3. **Option 3: Exclude yourself from the Settlement.** If you do not wish to participate in the Settlement, you must mail a written, signed Exclusion Letter, **postmarked no later than [45 DAYS AFTER MAILING OF CLASS NOTICE VIA U.S. MAIL]**. Exclusion Letters must be mailed to **[INSERT ADDRESS]**. The Exclusion Letter must include your name, the last four digits of your Social Security number, your signature, and the following statement or a similar statement: "I request to be excluded from the class action Settlement taking place in the matter of *Hazel v. Himage Solutions, Inc.*, Case No. RG20068159, Superior Court of California, County of Alameda." If you submit a valid Exclusion Letter by the deadline, you will not be a Participating Class Member, you will not be eligible to receive a Settlement Share, and you will not be included for purposes of calculating the Settlement Share of any Participating Class Member. Any such person will retain the right, if any, to pursue at his or her own expense a claim against Himage. An incomplete, unsigned, or untimely Exclusion Letter will be deemed invalid.

Consistent with Himage policies, there will be no retaliation or adverse action taken against any Class Member who participates in the Settlement or opts out of the Settlement.

4. **Option 4: Object to the Settlement.** If you do not submit an Exclusion Letter, you may object to the terms of the Settlement. Objections to the Settlement must be mailed and **postmarked by not later than [45 DAYS AFTER MAILING OF CLASS NOTICE VIA U.S. MAIL]**. Objections must be mailed to **[INSERT ADDRESS]**. Objections must be in writing and state your full name, current address, and telephone number, as well as contact information for any attorney representing you for purposes of the objection. Objections must include all factual and legal bases for the objection, and must include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence supporting the objection. If you submit a timely written objection, you may also appear or appear through counsel of your choice, paid at your own expense, and be heard at the time of the final approval hearing, if you wish to do so, but only if you indicate in your objection that you intend to appear. If the Court overrules your objection, you will be bound by the terms of the Settlement and receive a Settlement Share.

THE LAWYERS FOR THE PARTIES

CLASS COUNSEL

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DO NOT TELEPHONE THE COURT OR HIMAGINE'S COUNSEL.

FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a final approval hearing on [REDACTED], 2021, at [REDACTED] a.m., in [DEPARTMENT] of the Superior Court of California, County of Alameda, [COURTHOUSE ADDRESS], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve the requests for the Class Representative Payment and the Class Counsel Fees and Expenses Payment.

The hearing may be postponed without further notice to the Class. **It is not necessary for you to appear at this hearing.** If you have submitted an objection and indicated that you intend to appear in the manner set forth above, you may appear at the hearing and be heard.

GETTING MORE INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Settlement Agreement, which is on file with the Clerk of the Court. The pleadings and other records in this litigation including the Settlement Agreement, may be examined at the Office of the Clerk, Superior Court of California, County of Alameda, [COURTHOUSE ADDRESS], during the Clerk's normal business hours; or you may contact Class Counsel or the Settlement Administrator. Reference the *Hazel v. Himagine* Wage and Hour Settlement.

PLEASE DO NOT TELEPHONE THE COURT OR HIMAGINE'S COUNSEL FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS. YOU MAY, HOWEVER, CALL ANY OF THE CLASS COUNSEL LISTED ABOVE OR THE SETTLEMENT ADMINISTRATOR AT [INSERT NUMBER].

EXHIBIT B

[NOTICE OF ESTIMATED SETTLEMENT AWARD]

NOTICE OF ESTIMATED SETTLEMENT AWARD

BRIAN HAZEL V. HIMAGINE SOLUTIONS, INC.
ALAMEDA COUNTY SUPERIOR COURT CASE NO. RG20068159

Please complete, sign, date and return this Form to <<ADMINISTRATOR CONTACT INFO>> **ONLY IF** (1) your personal contact information has changed, and/or (2) you wish to dispute the number of workweeks listed in Section (III), below. It is your responsibility to keep a current address on file with the Settlement Administrator.

(I) Please type or print your name:

(First, Middle, Last)

(II) Please type or print the following identifying information if your contact information has changed:

Former Names (if any)

New Street Address

City

State

Zip Code

(III) Information Used to Calculate Your Estimated Settlement Share:

According to Himagine's records: you worked [REDACTED] workweeks for Himagine in a Coder Position while residing in the State of California between November 1, 2015 and <<PRELIM APPROVAL DATE>>.

Based on the above, your Settlement Share is estimated at \$ [REDACTED].

(IV) If you disagree with the number of workweeks in Section (III) above, please explain why in the space provided below and include copies of any supporting evidence or documentation with this Form:

If you dispute the above information from Himagine's records, Himagine's records will control unless you are able to provide documentation that establishes otherwise and that Himagine's records are mistaken. If there is a dispute about whether Himagine's information or yours is accurate, and the dispute cannot be resolved informally, the dispute will be resolved by the Court.

Date: _____

Signature: _____

ANY DISPUTES, ALONG WITH ANY SUPPORTING DOCUMENTATION, MUST BE POSTMARKED NO LATER THAN <<45 DAYS AFTER MAILING OF CLASS NOTICE>>.

EXHIBIT C
[PROPOSED ORDER GRANTING PRELIMINARY APPROVAL OF SETTLEMENT]

Exhibit C

(Counsel listed on the next page)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

BRIAN HAZEL, on behalf of the State of
California, and on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

HIMAGINE SOLUTIONS, INC., and DOES
1-100, inclusive,

Defendants.

Case No. RG20068159

[PROPOSED] ORDER:

**(1) PRELIMINARILY APPROVING
PROPOSED SETTLEMENT;**

**(2) CONDITIONALLY CERTIFYING
SETTLEMENT CLASS;**

**(3) APPROVING CLASS NOTICE AND
RELATED MATERIALS; AND**

**(4) SETTING HEARING FOR FINAL
APPROVAL OF SETTLEMENT**

Date: [REDACTED], 2021

Time: [REDACTED].m.

Judge: [REDACTED]

Dept.: [DEPT]
[ADDRESS]

Complaint filed: July 20, 2020

Trial date: None set

Exhibit C

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Attorneys for Defendant
Himage Solutions, Inc.

Exhibit C

1 The Joint Motion of Plaintiff Brian Hazel (“Plaintiff”) and Defendant HImagine Solutions,
2 Inc. (“Defendant”) (together, the “Parties”) for Preliminary Approval of Class Action Settlement
3 (the “Motion”) came on regularly for hearing before this court on [REDACTED], 2021 at
4 [TIME]. The Court, having considered the proposed Settlement Agreement (the “Settlement”),
5 attached as Exhibit [REDACTED] to the Declaration of [COUNSEL] filed concurrently with the Motion;
6 having considered the Motion, Memorandum of Points and Authorities in support thereof, and
7 supporting declarations filed therewith, and any argument presented at the hearing on the Motion;
8 and good cause appearing, HEREBY ORDERS THE FOLLOWING:

9 1. The Court GRANTS preliminary approval of the class action settlement as set
10 forth in the Settlement and finds its terms to be within the range of reasonableness of a settlement
11 that ultimately could be granted approval by the Court at a Final Approval Hearing. For purposes
12 of the Settlement only, the Court finds that the proposed Class is ascertainable and that there is a
13 sufficiently well-defined community of interest among the members of the Class in questions of
14 law and fact. Therefore, for settlement purposes only, the Court grants conditional certification
15 of the Class, which is defined as follows:

16 All current and former employees who worked for HImagine in a non-
17 exempt Coder Position (Coder Inpatient, Coder In/Outpatient, Coder
18 Physician, Coder Outpatient PT, Coder ER PT, Coder ER, Coder
19 Outpatient, Associate Coder - Acute Care, Coder HCC, Coder Inpatient PT,
20 Coder Ancillary PT, Coder Physician PT, Coder Ancillary, and Coder
In/Outpatient PT) while residing in the State of California, at any time from
November 1, 2015 through the date on which the Superior Court grants
preliminary approval of the Settlement.

21 2. For purposes of the Settlement, the Court designates Plaintiff Brian Hazel as Class
22 Representative, and designates Carolyn Hunt Cottrell, David C. Leimbach, and Scott L. Gordon
23 of Schneider Wallace Cottrell Konecky LLP and Alan L. Quiles of Shavitz Law Group, P.A. as
24 Class Counsel.

25 3. The Court designates [SETTLEMENT ADMINISTRATOR] as the third-party
26 Settlement Administrator for mailing notices.

27 4. The Court approves, as to form and content, the Notice of Proposed Settlement,
28 Conditional Certification of Settlement Class, Preliminary Approval of Settlement, and Hearing

Exhibit C

1 Date for Final Court Approval (“Class Notice”), and the Notice of Estimated Settlement Award,
2 attached as Exhibit A and Exhibit B, respectively, to the Settlement (collectively, the “Class
3 Notice Packet”).

4 6. The Court finds that the form of notice to the Class Members regarding the
5 pendency of the action and of the Settlement, and the methods of giving notice to Class Members,
6 constitute the best notice practicable under the circumstances, and constitute valid, due, and
7 sufficient notice to all Class Members. The form and method of giving notice complies fully with
8 the requirements of California Code of Civil Procedure section 382, California Civil Code section
9 1781, California Rules of Court 3.766 and 3.769, the California and United States Constitutions,
10 and other applicable law.

11 7. The Court further approves the procedures for Class Members to opt out of or
12 object to the Settlement, as set forth in the Notice.

13 8. The procedures and requirements for filing objections in connection with the Final
14 Approval Hearing are intended to ensure the efficient administration of justice and the orderly
15 presentation of any Class Member’s objection to the Settlement, in accordance with the due
16 process rights of all Class Members.

17 9. The Court directs the Settlement Administrator to send the Class Notice Packet to
18 the Class Members via U.S. Mail and email in accordance with the terms of the Settlement.

19 10. The Class Notice shall provide at least 45 calendar days’ notice from the date of
20 initial mailing for Class Members to opt out of, or object to, the Settlement.

21 11. The Final Approval Hearing on the question of whether the Settlement should be
22 finally approved as fair, reasonable, and adequate is scheduled for [REDACTED], 2021 at
23 [REDACTED] a.m. / p.m. in Department [REDACTED].

24 12. At the Final Approval Hearing, the Court will consider: (a) whether the Settlement
25 should be finally approved as fair, reasonable, and adequate for the Class; (b) whether a judgment
26 granting final approval of the Settlement should be entered; and (c) whether Plaintiff’s application
27 for reasonable attorneys’ fees, reimbursement of litigation expenses, representative payment to
28

Exhibit C

Plaintiff, and settlement administration costs should be granted.

13. Counsel for the parties shall file memoranda, declarations, or other statements and materials in support of their request for final approval of the Settlement, attorneys' fees, litigation expenses, Plaintiff's representative payment, and settlement administration costs prior to the Final Approval Hearing according to the time limits set by the Code of Civil Procedure and the California Rules of Court.

14. An implementation schedule is below:

Event	Date
Himagine to provide Class Data to Settlement Administrator	No later than 25 days after preliminary approval
Settlement Administrator to mail Class Notice Packets to Class Members	No later than 5 days after receiving Class Data
Deadline for Class Members to opt out, or object to, the Settlement, or submit disputes to the Settlement Administrator	45 days after original mailing of Class Notice Packets
Deadline for Parties to jointly file Motion for Final Approval of Class Action Settlement:	16 court days before Final Approval Hearing
Final Approval Hearing	_____, 2021

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

16. Counsel for the parties are hereby authorized to utilize all reasonable procedures in connection with the administration of the Settlement which are not materially inconsistent with either this Order or the terms of the Settlement.

IT IS SO ORDERED.

Dated: _____, 2021

The Honorable _____
Judge of the Superior Court

EXHIBIT D

**[PROPOSED ORDER GRANTING FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND ENTERING FINAL JUDGMENT]**

Exhibit D

(Counsel listed on the next page)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

BRIAN HAZEL, on behalf of the State of
California, and on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

HIMAGINE SOLUTIONS, INC., and DOES
1 through 100, inclusive

Defendants.

Case No. RG20068159

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND ENTERING FINAL
JUDGMENT**

Date: [REDACTED], 2021

Time: [REDACTED] .m.

Judge: [REDACTED]

Dept.: [DEPT] [ADDRESS]

Complaint filed: July 20, 2020

Trial date: None set

Exhibit D

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Attorneys for Defendant
Himage Solutions, Inc.

Exhibit D

On [REDACTED], 2021, a hearing was held on the joint motion of plaintiff Brian Hazel (“Plaintiff”) and defendant HImagine Solutions, Inc. (“HImagine”), for final approval of their class settlement (the “Settlement”) and payments to the Labor and Workforce Development Agency and the Settlement Administrator.

The parties have submitted their Settlement, which this Court preliminarily approved by its [REDACTED], 2021, order (“Preliminary Approval Order”). In accordance with the Preliminary Approval Order, Class Members have been given notice of the terms of the Settlement and the opportunity to comment on or object to it or to exclude themselves from its provisions.

Having received and considered the Settlement, the supporting papers filed by the parties, and the evidence and argument received by the Court at the hearing before it entered the Preliminary Approval Order and the final approval hearing on [REDACTED], 2021, the Court grants final approval of the Settlement, and HEREBY ORDERS, ADJUDGES, and DECREES as follows:

1. The following persons are Class Members for the purpose of entering a settlement in this matter:

All current and former employees who worked for HImagine in a non-exempt Coder Position (Coder Inpatient, Coder In/Outpatient, Coder Physician, Coder Outpatient PT, Coder ER PT, Coder ER, Coder Outpatient, Associate Coder - Acute Care, Coder HCC, Coder Inpatient PT, Coder Ancillary PT, Coder Physician PT, Coder Ancillary, and Coder In/Outpatient PT) while residing in the State of California, at any time from November 1, 2015 through [REDACTED], 2021.

2. For the reasons stated in the Preliminary Approval Order, the Court finds and determines that the proposed Class, as defined in the definitions section of the Settlement, meets all of the legal requirements for class certification, and it is hereby ordered that the Class is finally approved and certified as a class for purposes of the Settlement.

3. The Court appoints plaintiff Brian Hazel as representative of the Class, and appoints Carolyn Hunt Cottrell, David C. Leimbach, and Scott L. Gordon of Schneider Wallace Cottrell Konecky LLP and Alan L. Quiles of Shavitz Law Group, P.A. as Class Counsel.

Exhibit D

1 4. Pursuant to the Preliminary Approval Order, a Notice of Proposed Settlement and
2 Final Approval Hearing, and Notice of Estimated Settlement Award were sent to each Class
3 Member by first-class mail. These papers informed Class Members of the terms of the Settlement,
4 their right to receive a Settlement Share, their right to comment on or object to the Settlement or
5 to opt out of the Settlement and pursue their own remedies, and their right to appear in person or
6 by counsel at the final approval hearing and be heard regarding approval of the Settlement.
7 Adequate periods of time were provided by each of these procedures.

8 5. The Court finds and determines that this notice procedure afforded adequate
9 protections to Class Members and provides the basis for the Court to make an informed decision
10 regarding approval of the Settlement based on the responses of Class Members. The Court finds
11 and determines that the notice provided in this case was the best notice practicable, which satisfied
12 the requirements of law and due process.

13 6. [No Class Members or __ Class Members] objected to the Settlement as part of
14 this notice process or stated an intent to appear at the final approval hearing. [The Court overrules
15 the objections raised by objecting Class Members.]

16 7. The Court further finds and determines that the terms of the Settlement are fair,
17 reasonable, and adequate to the Class and to each Class Member and that the Class Members who
18 have not opted out will be bound by the Settlement, that the Settlement is ordered finally
19 approved, and that all terms and provisions of the Settlement should be and hereby are ordered to
20 be consummated.

21 8. The Court finds and determines that the Settlement Shares to be paid to the
22 Participating Class Members (Class Members who did not timely submit a valid Exclusion
23 Letter), as provided for by the Settlement, are fair and reasonable. The Court hereby gives final
24 approval to and orders the payment of those amounts to be made to the Participating Class
25 Members out of the Net Settlement Amount in accordance with the Settlement.

26 9. Pursuant to the Labor Code Private Attorneys General Act ("PAGA"), Cal. Lab.
27 Code §§ 2699(1)(2), (1)(4), the Labor Workforce and Development Agency ("LWDA") has been
28 given notice of the Settlement. Pursuant to PAGA, on [insert date], Plaintiff submitted to the

Exhibit D

LWDA a copy of the Settlement and a copy of the motion seeking preliminary approval of the Settlement. On [insert date], Plaintiff submitted to the LWDA a copy of the Settlement and a copy of the motion seeking final approval of the Settlement. The Court finds and determines that this notice of the Settlement complied with the statutory requirements of PAGA.

10. The Court finds and determines that payment to the LWDA of \$30,000 as its share of the settlement of civil penalties in this case is fair, reasonable, and appropriate. The Court hereby gives final approval to and orders that the payment of that amount be paid out of the Total Settlement Amount in accordance with the Settlement.

11. The Court finds and determines that the fees and expenses of [SETTLEMENT ADMINISTRATOR] in administering the settlement, in the amount of \$[REDACTED], are fair and reasonable. The Court hereby gives final approval to and orders that the payment of approximately that amount be paid out of the Total Settlement Amount in accordance with the Settlement.

12. In addition to any recovery that Plaintiff may receive from the Net Settlement Amount, and in recognition of the Plaintiff's efforts on behalf of the Class, the Court hereby approves the payment of an incentive award to Plaintiff in the amount of \$15,000. This shall be paid from the Total Settlement Amount.

13. Pursuant to the authorities and argument presented to the Court, the Court approves the payment of attorneys' fees to Class Counsel in the sum of \$307,500, plus costs and expenses in the amount of \$[REDACTED]. This shall be paid from the Total Settlement Amount.

14. Without affecting the finality of this order in any way, the Court retains jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation, and enforcement of this order and the Settlement.

15. Upon completion of administration of the settlement, the Settlement Administrator will provide written certification of such completion to the Court and counsel for the parties.

16. The Court finds that in consideration of Plaintiff's awarded Class Representative Payment, Plaintiff's Settlement Share, and the other terms and conditions of the Settlement, as of the date the Settlement becomes Final, except as provided below, Plaintiff releases any and all

Exhibit D

known and unknown claims against Himage and any present and former parents, subsidiaries and affiliated companies or entities, including but not limited to RCM Equity LLC, RCM Intermediate Holdings, Inc., and RCM Acquisition, Inc., and their respective officers, directors, employees, partners, shareholders and agents, and any other successors, assigns and legal representatives and related persons and entities (“Released Parties”), including any and all known and unknown claims that arise out of or relate to the allegations in the Action, as well as attorneys’ fees and costs, and waives the protection of California Civil Code section 1542 with respect to claims encompassed in this release.

17. The Court finds that in consideration for their awarded Settlement Shares, as of the date the Settlement becomes Final, all Participating Class Members release any and all known and unknown claims against Himage and the Released Parties based on the facts alleged in the operative complaint, from November 1, 2015 through the date on which the Court granted preliminary approval of the Settlement, including that Himage failed to pay for all hours worked; pay minimum wages or overtime compensation; provide meal and rest periods; reimburse or indemnify employees for necessary business expenses; provide accurate itemized wage statements; and pay all wages due to discharged and quitting employees. The released claims include but are not limited to such claims brought under California Labor Code sections 201, 202, 203, 204, 205, 226, 226.3, 226.7, 256, 510, 512, 1174(d), 1182.11, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, California Business and Professions Code sections 17200-17208, the Industrial Welfare Commission Wage Orders, and the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.* Such claims include claims for wages, statutory penalties, civil penalties, or other relief under the California Labor Code and any other related state or municipal law, relief from unfair competition under California Business and Professions Code section 17200 *et seq.*; attorneys’ fees and costs; and interest.

///

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Exhibit D

1 18. The parties are hereby ordered to comply with the terms of the Settlement,
2 including but not limited to the deadlines set forth therein related to the Court-approved payments
3 to Participating Class Members, Plaintiff, the LWDA, and Class Counsel.

4 19. The parties shall bear his, her, its or their own respective attorneys' fees and costs
5 except as otherwise provided in the Settlement.

6 **IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.**

7
8 Dated: _____, 2021

9 The Honorable [REDACTED]
10 Judge of the Superior Court