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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**
11 **CIVIL DIVISION, CENTRAL DISTRICT**
12 **SPRING STREET COURTHOUSE**

13 JAMES AVILEZ, individually and on behalf of
14 all others similarly situated,

15 Plaintiff,

16 v.

17 GORLITZ SEWER & DRAIN, INC., a
18 California corporation, and DOES 1 through 20,
19 inclusive,

20 Defendants.

Case No. 20STCV21169

**SUPPLEMENTAL MEMORANDUM IN
SUPPORT OF PLAINTIFF'S UNOPPOSED
MOTION FOR PRELIMINARY APPROVAL
OF PROPOSED CLASS ACTION
SETTLEMENT (ADDRESSING ALL ITEMS
IN THE ADDENDUM TO THE COURT'S
TENTATIVE RULING DATED FEBRUARY
10, 2021); SUPPLEMENTAL DECLARATION
OF DANIEL V. SANTIAGO IN SUPPORT OF
PLAINTIFF'S UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF PROPOSED
CLASS ACTION SETTLEMENT (filed under
separate cover); DECLARATION OF JAMES
AVILEZ IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF PROPOSED CLASS ACTION
SETTLEMENT (filed under separate cover);
FIRST AMENDED STIPULATION OF CLASS
ACTION SETTLEMENT AND RELEASE
(filed under separate cover); and [FIRST
AMENDED PROPOSED] ORDER
GRANTING PLAINTIFF'S UNOPPOSED
MOTION FOR PRELIMINARY APPROVAL
OF PROPOSED CLASS ACTION
SETTLEMENT (filed under separate cover).**

Hearing Date and Time: May 21, 2021 (continued
from February 11, 2021) at 10 a.m.

Dept.: 9

Judge: Honorable Yvette M. Palazuelos

Original Complaint Filed: May 29, 2020

I. INTRODUCTION

The Plaintiff, James Avilez, by and through his undersigned counsel, respectfully submits this Supplemental Memorandum in Support of the Plaintiff's Unopposed Motion for Preliminary Approval of Proposed Class Action Settlement (Addressing All Items in the Addendum to the Court's Tentative Ruling Dated February 10, 2021). For the Court's ease of reference, the format of this Supplemental Memorandum corresponds with the format of the Addendum to the Court's Tentative Ruling dated February 10, 2021.

I.C. MOVING PAPERS (Motion and Declarations) / Class Certification / Numerosity: Total number of members in the settlement class and number of members in each sub-class (if applicable). [¶] • Provide the estimated number of class members who fall within the PAGA time period.

The estimated number of Class Members who fall within the PAGA time period (i.e., Class Members who were employed by Defendant within one year of the date of filing of the Plaintiff's Complaint in this action) is 31. See paragraph 15 of the previously filed Declaration of Daniel V. Santiago in Support of Plaintiff James Avilez's Motion for Preliminary Approval of Proposed Class Action Settlement ("Santiago Decl.") which, in turn, references Defendant's Response to Special Interrogatory No. 5 as the basis for the estimated number of Class Members who fall within the PAGA time period.

I.C. MOVING PAPERS (Motion and Declarations) / Class Certification / Community of Interest: Discuss whether class representatives have claims or defenses typical of the class and can adequately represent the class (Linder v. Thrifty Oil Co. (2000) 23 Cal.4th 429, 435). [¶] • Plaintiff should provide a declaration evidencing that he/she understands the obligations of being an adequate class representative, the details of what he/she has done or will do to demonstrate the adequacy of his representative [sic], and the substantial burden he/she will undertake in order to represent the putative class in this case. (See Soderstedt v. CBIZ Southern California, LLC (2011) 197 Cal.App.4th 133, 155-156; Jones v. Farmers Ins. Exchange (2013) 221 Cal.App.4th 986, 998-999).

1 See the Declaration of James Avilez in Support of Plaintiff James Avilez's Motion for
2 Preliminary Approval of Proposed Class Action Settlement ("Avilez Decl.") filed concurrently
3 herewith. Said declaration evidences that Plaintiff's claims are typical of the Class Members'
4 claims (see, e.g., paragraphs 7 - 18 of the Avilez Decl.), Plaintiff understands the obligations of
5 being an adequate class representative (see, e.g., paragraphs 19 – 22 of the Avilez Decl.), the details
6 of what he has done and will do to demonstrate the adequacy of him as a class representative, and
7 the substantial burden he has undertaken and will undertake in order to represent the putative class
8 in this case (see, e.g., paragraphs 23 – 26 of the Avilez Decl.).

9 **I.E. MOVING PAPERS (Motion and Declarations) / Miscellaneous / If notice will be given in**
10 **English only, explain why this is sufficient.**

11 The parties have agreed that the Class Notice to be mailed all Class Members will be in
12 English and Spanish. See paragraph 15 of the First Amended Stipulation of Class Action
13 Settlement and Release (hereinafter referred to as the "First Amended Stipulation") which states in
14 part: "The English and Spanish versions of the Notice are substantively identical, and each page of
15 the Notice will be two-sided with the English version being on the front side and the Spanish version
16 being on the reverse side." Additionally, see the English version of the Class Notice attached as
17 Exhibit "A" to the First Amended Stipulation which states as follows on page 1 in the paragraph
18 immediately below the heading "**NOTICE OF CLASS ACTION SETTLEMENT**": "*You are*
19 *not being sued. This Notice of Class Action Settlement (the English and Spanish versions of*
20 *which are substantively identical) affects your rights. Please read it carefully.*" Further, see the
21 Spanish version of the Class Notice attached as Exhibit "B" to the First Amended Stipulation.

22 **II.A. SETTLEMENT AGREEMENT / The Basics / Class definition. Why is it proper that**
23 **PAGA employees and the PAGA period are not defined separately? How would it be**
24 **appropriate for all Class Members to share in the PAGA penalty given the PAGA statute's**
25 **applicable statute of limitations?**

26 The parties have agreed to define separately the PAGA Class Members and the PAGA
27 Period. Specifically, paragraph 4 of the First Amended Stipulation states:

1 For purposes of this Stipulation, the Settlement Class” shall consist of all “Class
2 Members” defined as follows: all persons who were employed by Defendant and
3 paid hourly rates at any time within the Class Period as defined above.
4 Additionally, the “PAGA Class Members” are defined as all Class Members who
5 were employed by Defendant at any time within the PAGA Period. Further, the
6 “PAGA Period” is defined as the one-year time period of May 29, 2019 (one year
7 preceding the filing of the Complaint) up to and through May 29, 2020 (the date of
8 filing of the Complaint).

9 Additionally, the parties have agreed that the Class Member PAGA Payments (i.e., 25% of
10 the PAGA Settlement Amount of \$7,500, or \$1,875) will be distributed among all PAGA Class
11 Members in equal shares (instead of the Class Member PAGA Payments being distributed among
12 all Class Members as provided in the original Stipulation of Class Action Settlement and Release).
13 See paragraph 11.d. of the First Amended Stipulation.

14 **II.B. SETTLEMENT AGREEMENT / Release of Claims / Scope: The scope of any release**
15 **given by class members must be defined with precision and clarity. Any released claims not**
16 **presented directly in the complaint must be based on the facts alleged in the complaint. [¶]**

17 **• Why is the no re-employment provision at ¶27 proper in light of Code of Civil Procedure**
18 **§1002.5?**

19 In light of California Code of Civil Procedure §1002.5 which became effective on January
20 1, 2020, the parties have agreed to exclude from the First Amended Stipulation the following “no
21 re-employment” provisions that were inadvertently contained in paragraph 27 of the original
22 Stipulation of Class Action Settlement and Release: “Plaintiff further acknowledges and agrees that
23 he shall not apply for, seek or accept employment with Defendant (including its parent companies,
24 subsidiaries and affiliates) at any time, whether directly or through a third party such as a consulting
25 agency. However, this paragraph shall not require Plaintiff to resign his position at a future
26 employer if his future employer becomes a parent, subsidiary or affiliate of Defendant after this
27 Stipulation is executed.”

1 The parties respectfully submit that the releases given by the Class Members and Plaintiff,
2 as set forth in the First Amended Stipulation, are defined with precision and clarity.

3 **II.B. SETTLEMENT AGREEMENT / Release of Claims / Release Effective Date: Indicate**
4 **the point in time at which the release will be deemed effective as to the absent class members.**
5 **If the release will be effective before settlement funds are paid, explain why this is in the best**
6 **interest of the class. [¶] • Modify the effective date of the releases (¶¶ 25, 26) to be the date**
7 **on which Defendant fully funds the settlement.**

8 The parties have agreed that the effective date of the Released Class Claims by each
9 Participating Class Member and the Released PAGA Claims by all Class Members will be the date
10 on which Defendant fully funds the Settlement (not the earlier date on which the Court grants final
11 approval of the Settlement). The parties' agreement in this regard is reflected in paragraphs 25 and
12 26 of the First Amended Stipulation. More specifically, paragraph 25 of the First Amended
13 Stipulation states in part, "Upon the date on which Defendant fully funds the Settlement, each
14 Participating Class Member will release Defendant and the Released Parties from the 'Released
15 Class Claims,' which are defined as . . ." Similarly, paragraph 26 of the First Amended Stipulation
16 states in part, "Upon the date on which Defendant fully funds the Settlement, all Class Members
17 will release Defendant and the Released Parties from the 'Released PAGA Claims,' which are
18 defined as . . ."

19 **II.C. SETTLEMENT AGREEMENT / Monetary Terms of Settlement / Deductions from the**
20 **settlement fund. Indicate the amounts to be deducted from the gross settlement for attorneys'**
21 **fees and costs, plaintiff incentive awards, administrative costs, PAGA payment and allocation**
22 **of award to LWDA and the parties, and any other existing deductions. [¶] • Explain why it**
23 **is appropriate for Defendant's share of payroll taxes to be paid out of the Net Settlement**
24 **Amount (see ¶11.e), provide an estimated amount for the deduction, and disclose the amount**
25 **to Class Members in the notice.**

26 The issue of whether Defendant's share of taxes should be paid from the Net Settlement
27 Amount as provided in paragraph 11.e of the First Amended Stipulation of Class Action Settlement
28

1 (instead of Defendant's share of taxes being in addition to, or on top of, the Gross Settlement
2 Amount of \$220,000) was subject to careful consideration and negotiation by the parties during the
3 mediation on April 29, 2020, with the Honorable Judge Margaret A. Nagle, Ret., of JAMS. (See
4 paragraph 4 of the Supplemental Declaration of Daniel V. Santiago in Support of Plaintiff James
5 Avilez's Motion For Preliminary Approval of Proposed Class Action Settlement ["Supplemental
6 Santiago Decl."].) Ultimately, the parties' agreement at the mediation that Defendant's share of
7 taxes would be paid from the Net Settlement Amount was a material term of the Settlement.
8 (Supplemental Santiago Decl., ¶4).

9 The Settlement Administrator estimates that Defendant's share of taxes to be paid from the
10 Net Settlement Amount is \$4,125.72. (Supplemental Santiago Decl., ¶¶5-7). The parties agree to
11 disclose this amount to the Class Members in the Class Notice. See page 2 of the amended Class
12 Notice, subparagraph (2) under the heading "**Summary of The Proposed Settlement Terms**",
13 which states:

14 For tax purposes, the Individual Settlement Payments to Participating Class
15 Members will be treated as follows: 20% of the gross amount of each Individual
16 Settlement Payment will be treated by the Parties as wages reported on IRS Form
17 W-2 (subject to applicable withholdings and deductions), and the Settlement
18 Administrator shall withhold and pay over all such withheld funds to the
19 appropriate state and federal taxing authorities (*Defendant's share of payroll taxes*
20 *in the estimated amount of \$4,125.72 will be paid from the Net Settlement Amount*);
21 40% of the gross amount of each Individual Settlement Payment will be treated by
22 the Parties as payment for penalties, not subject to payroll withholdings and
23 deductions, and shall be reported on an IRS Form 1099; and 40% of the gross
24 amount of each Individual Settlement Payment will be treated by the Parties as
25 payment for interest, not subject to payroll withholdings and deductions, and shall
26 be reported on an IRS Form 1099.

27 The foregoing italicized language in the Class Notice expressly informs all Class Members that: (a)
28 Defendant's share of payroll taxes will be paid from the Net Settlement Amount; and (b) the
29 estimated amount of Defendant's share of payroll taxes is \$4,125.72.

30 **II.C. SETTLEMENT AGREEMENT / Monetary Terms of Settlement / Payment Formula:**
31 **Amount and manner of distribution of the compensation to each class member, including the**
32 **estimated amount each class member will receive and the timeline on which payments will be**
33 **issued. [¶] • Why is it proper not to have a separate calculation as to PAGA penalties?**

1 The parties respectfully submit that proposed settlement does have a separate calculation as
2 to PAGA penalties. For example, see page 2 of the amended Class Notice (Exhibit “A” to the First
3 Amended Stipulation), subparagraph (3) under the heading “**Summary of The Proposed**
4 **Settlement Terms**”, which states: “Each PAGA Class Member will also receive a Class Member
5 PAGA Payment of approximately \$60.48, representing an equal share of the PAGA payments available to
6 PAGA Class Members *(for tax purposes, the Class Member PAGA Payments will be treated as non-*
7 *wages and will be reported on IRS Form 1099).*”

8 To avoid any uncertainty on this point, the parties have agreed to revise paragraph 11.d of
9 the First Amended Stipulation (which paragraph is entitled “PAGA Payments”) to expressly state,
10 in part: “The Parties estimate that each PAGA Class Member will receive a Class Member PAGA
11 Payment of approximately \$60.48 (i.e., \$1,875 / 31 PAGA Class Members = \$60.48 per PAGA Class
12 Member), representing an equal share of the PAGA payments available to PAGA Class Members *(for tax*
13 *purposes, the Class Member PAGA Payments will be treated as non-wages and will be reported on*
14 *IRS Form 1099).*”

15 **II.D. SETTLEMENT AGREEMENT / Notice Administration / Does the notice accurately**
16 **reflect the Court’s current social distancing procedures for attendance at hearings and review**
17 **of court files? (Counsel should check the Court website for most current information.)**

18 The parties agree to revise the Class Notice to ensure that it accurately reflects the Court’s
19 current social distancing procedures for attendance at hearings and review of court files. See page
20 5 of the amended Class Notice (Exhibit “A” to the First Amended Stipulation) under the heading
21 “**Covid-19 Related Information**” which states in part:

22 In light of the Covid-19 pandemic, all Class Members are encouraged to follow the
23 Court’s current social distancing procedures for attendance at hearings and/or
24 review of court files. Those procedures are intended to provide safe, efficient
25 options for Class Members to attend hearings and/or review court files if they elect
26 to do so. Those procedures are available for review on the Los Angeles Superior
27 Court’s website at <https://www.lacourt.org/>.

28 As of Plaintiff’s submission of this Notice of Class Action Settlement to the Court
for its preliminary approval, the home page of the Los Angeles Superior Court’s
website contains links to, *inter alia*, the *Here For You / Safe For You* News Center
for more information as well as the *Here For You / Safe For You* video. The left

1 hand column of the *Here For You / Safe For You* News Center contains several
2 links for the public's benefit including, among others, links entitled "Appear For
3 Your Hearing Remotely" (see <https://my.lacourt.org/laccwelcome>), "Remote
4 Audio Attendance Program" (<https://my.lacourt.org/remotearrival/welcome>),
5 "Schedule Courthouse Appointment"
6 (<http://www.lacourt.org/newsmedia/ui/pdf/CALLCENTERPHONENUMBERSfinal.pdf>), and
7 "Information Regarding Courtroom Access"
8 (<http://www.lacourt.org/newsmedia/ui/CourtroomSeating.aspx>). Additionally, as
9 of Plaintiff's submission of this Notice of Class Action Settlement to the Court for
10 its preliminary approval, the home page of the Los Angeles Superior Court's
11 website states in part, "APPOINTMENTS REQUIRED FOR CLERK'S
12 OFFICE AND SELF-HELP SERVICES[.]"

13 **II.D. SETTLEMENT AGREEMENT / Notice Administration / How will you give notice of**
14 **any change of the date or location of the hearing?**

15 The parties agree that the Settlement Administrator will notify all Class Members of any
16 change of the date or location of the Final Approval Hearing. See paragraph 28.g. of the First
17 Amended Stipulation which states in part, "the Parties agree that [i] the Settlement Administrator
18 will promptly notify all Class Members via notification on the Settlement Administrator's website
19 (www.cacservicesgroup.com) of any change of the date or location of the final approval hearing
20 with regard the fairness, adequacy and reasonableness of the Settlement and [ii] to ensure that the Settlement
21 Administrator is promptly notified of any such change, Plaintiff's counsel will promptly notify the
22 Settlement Administrator via phone call and follow-up email of any such change and simultaneously remind
23 the Settlement Administrator of its duty to promptly notify all Class Members via notification on its
24 website of any such change[.]"

25 **II.D. SETTLEMENT AGREEMENT / Notice Administration / How will notice of final**
26 **judgment be given to the class? (Cal. Rules of Court, rule 3.771(b) (e.g., Posted on claims**
27 **administrator's website.)**

28 The parties agree that the Settlement Administrator will notify all Class Members of the
Final Order and Judgment by enclosing a postcard or other written notification in each mailing of
the Individual Settlement Payments to the Participating Class Members and the Class Member
PAGA Payments to the Class Members that the Final Order and Judgment is posted and available
for review on the Settlement Administrator's website. See paragraph 31 of the First Amended

1 Stipulation under the heading “NOTICE OF FINAL ORDER AND JUDGMENT TO ALL
2 CLASS MEMBERS”.

3 **II.D. SETTLEMENT AGREEMENT / Notice Administration / Confirm the settlement**
4 **agreement and notice are consistent. [¶] • Provide information regarding the check-cashing**
5 **deadline and fund to which uncashed checks will be directed on the Notice. [¶] • Remind**
6 **Class Members in bold print to keep the Settlement Administrator advised of any change of**
7 **address.**

8 The parties have agreed to provide information regarding the check-cashing deadline and
9 fund to which uncashed checks will be directed in the amended Class Notice (Exhibit “A” to the
10 First Amended Stipulation). See page 3 of the amended Class Notice in the last paragraph below
11 the heading “Summary of The Proposed Settlement Terms” that states in part:

12 Checks issued to Class Members shall remain valid and negotiable for one hundred
13 eighty (180) calendar days from the date of their mailing. The Settlement
14 Administrator will remit the entire amount of each Class Member’s uncashed
15 Settlement Payment as follows: Any checks issued by the Settlement
16 Administrator to Class Members shall be negotiable for one hundred eighty (180)
17 calendar days. Those funds represented by Settlement checks returned as
18 undeliverable and those Settlement checks remaining uncashed for more than one
19 hundred eighty (180) calendar days after issuance (collectively, “Voided Settlement
20 Checks”) shall be distributed to the Controller of the State of California to be held
21 pursuant to the Unclaimed Property Law, California Civil Code Section 1500 et
22 seq., for the benefits of those Class Members who did not cash their checks until
23 such time they claim their property.

24 Additionally, the parties have agreed to remind the Class Members in bold print and capital
25 letters to keep the Settlement Administrator advised of any change of address. See page 6 of the
26 amended Class Notice that states in part:

27 **IF YOUR ADDRESS HAS CHANGED OR YOU PLAN TO CHANGE YOUR**
28 **ADDRESS IN THE NEXT SIX MONTHS, PLEASE CONTACT THE**
SETTLEMENT ADMINISTRATOR WITH YOUR NEW CONTACT
INFORMATION. THE SETTLEMENT ADMINISTRATOR’S MAILING
ADDRESS, PHONE NUMBER, FAX NUMBER AND EMAIL ADDRESS
ARE AS FOLLOWS:

Settlement Administrator
CAC SERVICES GROUP, LLC

1 1601 Southcross Dr W
2 Burnsville, MN 55306
3 Phone: 866-602-2260
4 Fax: 888-495-9746
5 Email: njohnson@cacservices.com
6 Website: www.ccservicesgroup.com

7 **II.E. SETTLEMENT AGREEMENT / Responses to Notice / What is the deadline to submit**
8 **objections, requests for exclusion, claim forms (if applicable), and/or disputes to workweeks?**
9 **Is this deadline reasonable? Will class members who receive re-mailed notices be given an**
10 **extension? [¶] • Provide a deadline for class members to submit workweek disputes in the**
11 **settlement agreement and notice.**

12 The parties agree to provide the same deadline for Class Members to submit workweek
13 disputes as the deadline for Class Members to request exclusion from or object to the Settlement
14 (i.e., within 60 days of the date of the Settlement Administrator's mailing of the Class Notice to the
15 Class Members). The parties further agree to expressly state that deadline in the First Amended
16 Stipulation and the amended Class Notice (Exhibit "A" to the First Amended Stipulation) as
17 indicated below.

18 See paragraph 11.g.(5) of the First Amended Stipulation which states:

19 If any Class Member believes that the number of weeks worked by him or her for
20 Defendant during the Class Period as stated in the Notice mailed to him or her is
21 incorrect, or that the estimated settlement payment amount as stated in the Notice
22 mailed to him or her is incorrect, then: (a) the Class Member must submit a written
23 dispute to the Settlement Administrator with supporting documents to verify such
24 dispute; (b) the written dispute must include the Class Member's name, address,
25 telephone number, last four digits of his or her Social Security Number and signature;
26 (c) the written dispute must be dated, signed, and mailed by First Class U.S. Mail or
27 equivalent to the Settlement Administrator at the address stated in the Notice or emailed
28 to the Settlement Administrator at the email address stated in the Notice within 60 days of
the date of the Settlement Administrator's mailing of the Notice to the Class Members; and
(d) Defendant's records will be dispositive unless the Class Member is able to provide
documentation that supports such dispute.

Additionally, see pages 2 - 3 of the amended Class Notice (Exhibit "A" to the First Amended
Stipulation) which state in part:

1 According to Defendant's records, you worked a total of ____ weeks, and all Class
2 Members worked a total of ____ weeks, during the Class Period. Accordingly,
3 your estimated settlement payment is approximately \$____, which reflects
4 the sum of (a) your *pro rata* share of the Net Settlement Amount of
approximately \$____, and (b) your Class Member PAGA Payment of
approximately [\$60.48] [\$0 given that you were not employed by Defendant
during the PAGA Period].

5 If you believe any of the information provided above including, but not limited to, the total
6 number of your weeks worked during the Class Period and/or your estimated settlement
7 payment is incorrect, you may submit a written dispute to the Settlement Administrator
8 setting forth the details of your dispute with any supporting documents to verify your
9 dispute. The written dispute must include your name, signature, address, telephone
number, and last four digits of your Social Security Number. Sign, date, and mail the
written dispute by First Class U.S. Mail or equivalent to the Settlement Administrator at
the mailing address below or by email to the email address below:

10 Settlement Administrator
11 c/o CAC Services Group, LLC
12 1601 Southcross Dr W
13 Burnsville, MN 55306
Phone: 866-602-2260
Fax: 888-495-9746
Email: njohnson@cacservices.com
Website: www.ccservicesgroup.com

14 Any written dispute of any of the information stated above must be postmarked or
15 emailed no later than _____ 2021 (i.e., 60 days after the date of mailing of this
Notice of Class Action Settlement). Late disputes will not be considered.

16 If you dispute the information stated above and submit to the Settlement
17 Administrator a written dispute in accordance with the aforementioned
18 requirements, the Parties' counsel will make good faith efforts to resolve the dispute
19 informally. If the Parties' counsel cannot resolve such dispute informally, then the
20 Settlement Administrator will be required: (a) to confer with you and the Parties'
21 respective counsel regarding such dispute prior to resolving such dispute; (b) to
resolve such dispute by reviewing Defendant's records and any supporting
documents you submit for the sole purpose of administering the Settlement; and (c)
to provide you and the Parties' respective counsel with a written explanation of the
Settlement Administrator's resolution of such dispute and the bases thereof.

22 Further, the parties agree that each Class Member who receives a re-mailed Class Notice
23 will be given an extension of the deadline to request exclusion from or opt out of the Settlement, to
24 object to the Settlement, or to dispute the accuracy of the number of weeks worked by him or her
25 during the Class Period and/or the estimated settlement payment amount as stated in the Class
26 Notice (i.e., an additional 15 calendar days from the end of the original 60-day notice period). See
27 paragraph 16 of the First Amended Stipulation.

1 **II.E. SETTLEMENT AGREEMENT / Responses to Notice / Consider making the objection**
2 **procedure the same as the opt-out procedure, with the only requirement being that objections**
3 **be mailed to the settlement administrator and not filed with the court.**

4 The parties have agreed to make the objection procedure the same as the opt-out procedure,
5 with the only requirement being that objections be mailed or e-mailed to the Settlement
6 Administrator and not filed with the Court. Specifically, paragraph 17 of the First Amended
7 Stipulation states: “Class Members will have sixty (60) calendar days from the date of the Notice
8 to provide any written request for exclusion from or objection to the Settlement to the Settlement
9 Administrator. Any request for exclusion or objection mailed and/or emailed by the deadline, as
10 evidenced by a postmark and/or email transmission date, shall be deemed to be timely. To be valid,
11 requests for exclusion or objections must comply with the instructions in the Notice. A Class
12 Member who excludes himself or herself from the Settlement shall not have standing to object to
13 the Settlement.”

14 Additionally, paragraph 21 of the First Amended Stipulation states: “To the extent any Class
15 Member objects to the Settlement (‘Objecting Class Member’), he/she must submit the objection
16 to the Settlement Administrator by U.S. Mail at the specified mailing address or by email at the
17 specified email address, and the objection must be postmarked or emailed no later than 60 days
18 after the date of the Notice.”

19 Further, paragraph 22 of the First Amended Stipulation states in part:

20 The Settlement Administrator will notify any person from whom it receives an
21 objection that is not timely and/or valid if, in fact, such objection is not timely
22 and/or valid. Any disputes regarding the timeliness, validity or effectiveness of an
23 objection shall be decided by the Settlement Administrator consistent with the
24 terms of this Stipulation, and with the Parties’ input, if appropriate. The date of the
25 postmark on the mailing envelope and/or the email for any objection shall be the
26 exclusive means used to determine whether the objection has been timely
27 submitted. Of note, the Settlement Administrator’s duties vis-à-vis any objections
28 to the Settlement as set forth in paragraph 22 of the First Amended Stipulation
correspond with the Settlement Administrator’s duties vis-à-vis any requests for
exclusion from the Settlement as set forth in paragraph 11.f. of the First Amended
Stipulation.

Moreover, the Class Notice has been revised to reflect the parties' agreement to make the objection procedure the same as the opt-out procedure. More specifically, the Class Notice states in part, "If you decide to object to the Settlement because you find it unfair or unreasonable, you may submit an objection to the Settlement Administrator stating why you object to the Settlement." (See page 4 of the Class Notice in the first paragraph below the heading "**Option 3 – Object to the Settlement**".) Additionally, the Class Notice states as follows:

"All objections must be submitted to the Settlement Administrator by First Class U.S. Mail or equivalent at the specified mailing address (see above) or by email at the specified email address (see above). Additionally, the objection must be postmarked or emailed no later than _____ 2021 (i.e., 60 days after the date of mailing of this Notice of Class Action Settlement). Late objections will not be considered. By submitting an objection, you are not excluding yourself from the Settlement. To exclude yourself from the Settlement, you must follow the directions described above. Please note that you cannot both object to the Settlement and exclude yourself. You must choose one option only."

(See page 5 of the Class Notice in the second paragraph below the heading "**Option 3 – Object to the Settlement**".)

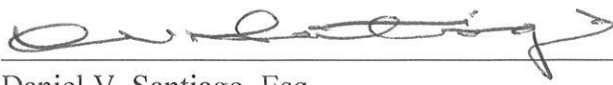
III. EXHIBITS TO THE MOTION / Provide proof of submission of the proposed settlement agreement to the LWDA. (Lab. Code, § 2699, subd. (l)(2).)

See paragraph 8 of the Supplemental Declaration of Daniel V. Santiago in Support of Plaintiff's Unopposed Motion for Preliminary Approval of Proposed Class Action Settlement which states:

I submitted the First Amended Stipulation and related papers (i.e., the Supplemental Memorandum in Support of Plaintiff's Unopposed Motion For Preliminary Approval of Proposed Class Action Settlement (Addressing All Items in the Addendum to the Court's Tentative Ruling Dated February 10, 2021), the Supplemental Declaration of Daniel V. Santiago in Support of Plaintiff's Unopposed Motion For Preliminary Approval of Proposed Class Action Settlement, the Declaration of James Avilez in Support of Plaintiff's Unopposed Motion For Preliminary Approval of Proposed Class Action Settlement, and the [First Amended Proposed] Order Granting Plaintiff's Unopposed Motion For Preliminary Approval of Proposed Class Action Settlement) to the LWDA at the same time I submitted those papers to the Court, as required by California Labor Code §2699(l)(2). More specifically, I submitted those papers to the LWDA via online filing on the LWDA's website immediately before I submitted those papers to the Court via online submission to One Legal for immediate filing in the Court.

1 Dated: April 6, 2021

LAW OFFICES OF DANIEL V. SANTIAGO, P.C.

2 By: 
3 Daniel V. Santiago, Esq.
4 Attorney for the Plaintiff, James Avilez
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