

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Release” and/or “Agreement”) is entered into by and between MICHAEL JOSEPH SIMON (hereinafter referred to as “PLAINTIFF”), on the one hand, and A+ DENTAL CORPORATION and CHRISTY YAN-CHING CHEN (hereinafter referred to as “DEFENDANTS”), on the other hand. PLAINTIFF and DEFENDANTS are referred to individually as “Party” and collectively as “Parties”.

RECITALS

A. WHEREAS Defendant A+ Dental Corporation is a corporation existing under the laws of the State of California and doing business in the State of California; and Defendant Christy Yan-Ching Chen is a shareholder and Officer of Defendant A+ Dental Corporation;

B. WHEREAS Defendant A+ Dental Corporation previously employed PLAINTIFF as a nonexempt employee in the State of California;

C. WHEREAS, PLAINTIFF filed a lawsuit against Defendants entitled *Michael Joseph Simon, et al, v. A+ Dental Corporation, et al.*, Case No. 37-2020-00034377-CU-OE-CTL, currently pending in the Superior Court of California, County of San Diego (the “Action”), alleging that he was not provided accurate itemized statements; he was not timely paid his final wages upon termination; he was not paid overtime wages; and he was terminated in retaliation for reporting illegal activity, *inter alia*. In the Action, PLAINTIFF brought claims on behalf of himself and all other current and former aggrieved employees of DEFENDANTS pursuant to the Private Attorneys General Act of 2004 (“PAGA”), codified as Labor Code section 2698, *et seq.*;

D. WHEREAS DEFENDANTS, on the one hand, and PLAINTIFF, on the other hand, each deny any wrongdoing, liability, or obligation to the other related to the claims asserted or which could have been asserted, all such claims being denied and contested. Nothing contained herein should be construed as an admission by any of the Parties of any liability of any kind or form, to the other Party or any other person; and,

E. WHEREAS the Parties now desire to fully and finally resolve, settle, compromise and discharge all differences, controversies, claims, and damages between and among them arising out of or relating to their prior relationship so as to avoid any further disputes, causes, inconveniences, exposure or expenses related to the claims asserted, or which could be asserted, by and between the Parties.

I. TERMS

NOW THEREFORE, in consideration of the promises and mutual agreements set forth below, the receipt and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Recitals Incorporated.** The above Recitals are incorporated herein by this reference, and are hereby made part of this Agreement.

2. **DEFENDANTS' Consideration and Covenants.** (a) In consideration of PLAINTIFF'S dismissal *with prejudice* of the Action in its entirety against all parties thereto, and in exchange for him releasing and discharging DEFENDANTS from all claims arising out of or relating to: (1) his alleged employment with DEFENDANTS and DEFENDANTS' alleged termination of his employment; (2) DEFENDANTS' alleged failure to pay all compensation, wages, penalties and interest due, including any waiting time penalties under Labor Code sections 201-203 and all other related claims, including but not limited to those arising out of Business and Professions Code §§ 17200 and 17203, *et seq.*; (3) DEFENDANTS' alleged failure to provide PLAINTIFF with accurate itemized wage statements; (4) PLAINTIFF's claim that he was not paid penalties for missed meal breaks; (5) any claims PLAINTIFF brought on behalf of himself and all other current and former aggrieved employees of DEFENDANTS pursuant to the Private Attorney General Act codified in Labor Code section 2698 *et seq.*; and (6) any other claims for damages, remedies, injunctions, compensation, benefits, reimbursements, wages, penalties, interest and attorneys' fees; and for PLAINTIFF's full and final release of any and all such claims against DEFENDANTS, their parents, successors, affiliates and assigns, as well as PLAINTIFF's other covenants as more specifically set forth herein, DEFENDANTS agree to:

(I) Pay PLAINTIFF, his attorneys, the Represented Employees (defined below), and the California Labor & Workforce Development Agency ("LWDA") the total sum of eighty-five thousand dollars (\$85,000.00) (the "Settlement Funds") within 30 days of the court approval of the settlement. The settlement funds will be allocated and paid as described below:

(1) Issuing one check in the amount of seventy-five thousand dollars (\$75,000.00) made payable to "**West Coast Employment Lawyers, APLC, Client Trust Account**", and for which a Form 1099 shall issue, which sum accounts for alleged unpaid wages, penalties, interest, costs and attorney fees. This check shall be delivered to: **West Coast Trial Lawyers, APLC** 1147 S. Hope Street, Los Angeles, CA 90015;

(2) Ten Thousand Dollar (\$10,000.00) is allocated to resolve the claims under PAGA ("PAGA Settlement Amount"), which shall be divided as follows:

(a) Three Thousand, Five Hundred Dollars (\$3,500.00) to Simpluris for the services as claims administrator;

(b) The remaining Six Thousand, Five Hundred Dollars (\$6,500) will be divided as follows: 75% of the PAGA settlement amount of Four Thousand, Eight Hundred and Seventy-Five Dollars (\$4,875.00) will be sent via check to the LWDA and 25% of the PAGA Settlement Amount of One Thousand, Six Hundred and Twenty-Five Dollars (\$1,625.00) will be divided evenly between all of the alleged aggrieved current and former employees, as PAGA penalties pursuant to Labor Code section 2699 subd. (i) ;

The one thousand six hundred twenty-five dollar (\$1,625.00) amount shall be allocated on a pro rata basis to each of the alleged aggrieved employees based on the number of workweeks worked for DEFENDANTS during the claim period. Thus, the \$1,625.00 will be

divided by the total number of workweeks for all alleged aggrieved employees, resulting in a per-workweek figure. Each employee will be issued a check in an amount equal to the number of workweeks he or she worked for DEFENDANTS multiplied by the per-workweek figure. DEFENDANTS shall use best efforts in distributing the checks to each alleged aggrieved current or former employee. Any uncashed or undeliverable checks will be voided 120 days after their issuance and DEFENDANTS will retain the funds from any uncashed or undeliverable checks.

3. **Court Approval of PAGA Settlement.** PLAINTIFF shall file a Motion for Court Approval of the PAGA settlement pursuant to Labor Code section 2699(I) within 14 days after this settlement agreement is signed by all Parties. PLAINTIFF has complete discretion to determine how much of the Settlement Funds will be allocated to settle his individual claims and how much will be allocated to settle his PAGA claims. Should the Court not approve PLAINTIFF's allocation of the Settlement Funds as described above, PLAINTIFF shall file successive Motions for Court Approval allocating more of the \$85,000 in Settlement Funds to PLAINTIFF's PAGA claims and less to his individual claims until such time as the Court approves the allocation of the settlement funds. In this process, the Settlement Funds of \$85,000 will never be increased.

4. **PLAINTIFF' Releases and Covenants.** In consideration of the Settlement Funds, as well as DEFENDANTS' consideration and covenants, as more specifically set forth above at Section I(2), the receipt and adequacy of which is hereby acknowledged, PLAINTIFF agrees to:

(i) Fully and finally, release DEFENDANTS as well as their officers, directors, shareholders, members, managers, agents, employees, attorneys, predecessors, successors, heirs, executors, administrators, and assigns, and all other persons, firms, corporations, associations or partnerships, or any other entity connected therewith from all claims and potential claims, demands, liabilities, damages and causes of action arising out of or related to his work with DEFENDANTS and his termination including all claims that were or could have been asserted in the Action including but not limited to: (1) his alleged employment with DEFENDANTS and DEFENDANTS' alleged termination of his employment; (2) DEFENDANTS' alleged failure to pay minimum wage and/or all compensation, wages, penalties and interest due, including any waiting time penalties under Labor Code sections 201-203 and all other related claims, including but not limited to those arising out of Business and Professions Code §§ 17200 and 17203, *et seq.*, (3) DEFENDANTS' alleged failure to provide PLAINTIFF with accurate itemized wage statements, including but not limited to sick leave accrual and use (4) PLAINTIFF' claim that he was not paid penalties for missed meal breaks, (5) PLAINTIFF' claims that DEFENDANTS failed to provide sick leave, (6) PLAINTIFF' claims that DEFENDANTS did not maintain employment and payroll records and/or failed to provide said records, (7) any claims PLAINTIFF brought on behalf of himself and all other current and former aggrieved employees of DEFENDANTS pursuant to the Private Attorney General Act codified in Labor Code section 2698 *et seq.*, and (8) any other claims for damages, remedies, injunctions, compensation, benefits, reimbursements, wages, penalties, interest and attorneys' fees; and,

(ii) Not pursue any cause of action, claim, or administrative remedy alleging or arising out of his employment with DEFENDANTS;

(iii) Within fifteen (15) calendar days after final approval of the PAGA settlement, PLAINTIFF will, send a signed Request for Dismissal of the Action, *with prejudice*, ensuring boxes 1(a)(1), 1(b)(1), and 1(b)(5) are checked in that document, to counsel for DEFENDANTS, at the following address: David W. Graves, Laturno & Graves, 613 W. Valley Parkway, Suite 225, Escondido, California 92025. This Request for Dismissal of the Action, *with prejudice*, will then be filed by counsel for DEFENDANTS with the Superior Court of California, County of San Diego, after all settlement payments have been made;

(iv) PLAINTIFF, as well as his heirs, agents, attorney(s), and assigns, shall and do hereby relieve, release, and discharge DEFENDANTS, as well as their officers, directors, shareholders, members, managers, agents, employees, attorneys, predecessors, successors, heirs, executors, administrators, and assigns, and all other persons, firms, corporations, associations or partnerships, or any other entity connected therewith, of and from any and all claims, debts, liabilities, demands, obligations, promises, acts, agreements, costs, and expenses (including, but not limited to, attorneys' fees, damages, wages, statutory penalties, liabilities, damages, causes of action, expenses, mediation fees, expert fees, mileage claims, actions, claims and causes of action of whatsoever kind or nature), of whatsoever kind or character, whether now known or unknown, suspected or unsuspected, based on, arising out of, or in connection with his relationship or interactions with DEFENDANTS including any claims arising out of or relating to his alleged employment and contractual relationship with DEFENDANTS and the acts and relationships of the Parties as set forth above, and anything whatsoever done, omitted, or suffered to be done, including but not limited to any and all claims for unpaid wages, overtime, or statutory penalties. By its terms, this Agreement includes not only claims arising before the effective date of this Agreement, but also any and all claims arising after such date which arise from the then-present effect of acts or conduct occurring before the effective date of the Agreement; and

(v) Fully and finally release any rights or claims he has, or may have, which do, or could, arise from any putative class (or collective) action currently pending in any court against DEFENDANTS, or any of its parent, affiliate and subsidiary corporations and/or entities, in any state or federal court.

(vi) This Agreement also specifically includes PLAINTIFF' release of any and all rights or claims he has or may have for alleged discrimination (of any kind or character), retaliation, harassment, defamation, wrongful termination, breach of contract, fraud, deceit, breach of the covenant of good faith and fair dealing, failure to pay wages, failure to provide meal and rest breaks, failure to prevent discrimination or harassment and/or failure to reasonably accommodate an alleged disability, failure to engage in the interactive process, under any law(s), including, without limitation, Title VII of the Civil Rights Act of 1964 and the Civil Rights Act of 1991, 42 U.S.C. §1981 and §1982, the ADEA, the Americans with Disabilities Act, the Family and Medical Leave Act, the Equal Pay Act, Private Attorney General Act, the Employee Retirement Income Security Act, the Fair Labor Standards Act, the California Constitution, the Worker Adjustment and Retraining Notification Act, the United States Code (Labor), the California Labor Code, any California wage order, the FEHA, the California Family Rights Act, and any other federal, state, or local law or ordinance, public policy, whistleblower, contract, tort, common law or any law sounding in equity. This Agreement also specifically includes release of any rights or claims PLAINTIFF, has or may have which do, or could, arise out of or

relate to his employment with DEFENDANTS.

(vii) PLAINTIFF certifies that he is not a recipient of Medicare benefits and represents that he has not incurred any medical bills reportable to or payable by Medicare related to his claims. PLAINTIFF releases DEFENDANTS and the other Released Parties of any responsibility for reimbursement of any liens against the proceeds of this settlement. This is to include any provider of medical benefits, Medicare benefits, workers' compensation benefits, insurance benefits, wage loss benefits, child support liens, or any and all other providers of benefits to PLAINTIFF. The reimbursement for any such benefits paid is PLAINTIFF's sole responsibility. DEFENDANTS and the other Released Parties will have no responsibility for reimbursement.

5. **Waiver of California Civil Code Section 1542.** Section 1542 of the Civil Code of the State of California, provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

The Parties expressly and completely waive and release any right or benefit which they have or may have under said Section 1542 of the Civil Code of the State of California pertaining to the matters released herein, except as expressly excluded herein. In connection with such waiver and relinquishment, the Parties acknowledge that they are aware that they may hereafter discover claims presently unknown or unsuspected, or facts in addition to, or different from those which they now know or believe to be true. Nevertheless, it is the intention of the Parties hereto, through this Agreement, and with the advice of counsel, to fully, finally and forever settle and release any and all claims that have or could have been asserted, arising on or before the date in which this Agreement is executed, except as expressly excluded herein. In furtherance of such intention, the releases herein given shall be and remain in effect as full and complete releases of such matters notwithstanding the discovery or existence of any such additional or different claims or facts relative thereto.

6. **Confidentiality.** The Parties agree that they shall keep the existence, terms and conditions of this Agreement confidential, except that any Party may disclose the same: (I) to attorneys and accountants whose knowledge of such information is directly relevant in the course of their business relationship with such Party (ii) in order to comply with a valid subpoena, court or administrative order, or other valid, legal process, and/or (iii) as required by a governmental agency, including, but not limited to, taxing authorities. In the event of any such disclosure(s) in the above-listed circumstances, the Party(ies) shall advise such person(s) to whom the disclosure is made, in advance, of the obligation to preserve and maintain the confidentiality of the terms and conditions set forth herein. It shall not be a breach of this provision if the Parties or their agents respond to any inquiry concerning the asserted claims and

releases in a manner substantially similar to the following: "I/we was/were able to resolve any differences."

The agreement to preserve and maintain the confidentiality of this Agreement is a material part of the consideration for DEFENDANTS, and PLAINTIFF acknowledges that DEFENDANTS would not have entered into this Agreement without said restriction. Accordingly, should PLAINTIFF violate this confidentiality provision, he agrees he will pay DEFENDANTS the amount of One Thousand Dollars (\$1,000). The Parties acknowledge that, in the event of a breach of this confidentiality provision, the damages caused by such breach would be difficult to ascertain, and that said sum is a reasonable estimate of those damages paid for this confidentiality provision.

7. **Non-Disparagement.** PLAINTIFF agrees not to make any false or disparaging comments about DEFENDANTS, their employees, former employees, agents or representatives, on any subject, including, but not limited to, the alleged claims resolved by this Agreement. DEFENDANTS agree that they will not make any false or disparaging comments about PLAINTIFF and will provide a neutral employment reference, including only PLAINTIFF's dates of employment, title and rate of pay, to any future prospective employer seeking a reference from DEFENDANTS.

8. **Attorneys' Fees and Costs.** The Parties shall bear their own attorneys' fees and costs related to this Agreement and the alleged claims resolved herein, and hereby agree they shall not pursue any other Party for any attorneys' fees or costs relating to this matter.

9. **Subsequent Attorneys' Fees.** Should any action, arbitration, or proceeding be initiated by any Party for the purpose of enforcing, interpreting or construing this Agreement, the prevailing party (as defined by California law) in such action, proceeding shall be entitled to recover their reasonable attorneys' fees and costs.

10. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and fully supersedes any and all prior understandings, representations, warranties and agreements between the Parties pertaining to the subject matter hereof.

12. **Governing Law.** This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of California in effect at the time of execution of this Agreement by the Parties, and without regard to choice of law principles.

13. **Independent Advice of Counsel.** The undersigned, in executing this Agreement, represent and acknowledge that they have been represented by independent counsel in the negotiation, preparation, drafting, and execution of this Agreement, that each Party has read this Agreement and has had it fully explained to it by its independent counsel prior to execution, and fully understands the Agreement's contents and legal effect.

14. **Non-Assignment of Released Claims.** The Parties represent and warrant to one another that they have not assigned or transferred to any third party any of the rights, claims, causes of action or items to be released, which they are obligated to release as part of this Agreement.

Voluntary Agreement. The undersigned represent and acknowledge they have signed the Agreement freely and voluntarily, without duress or coercion. Each Party, by executing this Agreement, represents that they shall not deny the validity of this Agreement on the ground they executed the same under duress, fraud or without capacity.

15. **Written Modifications.** The provisions of this Agreement may not be waived, altered, amended, modified, assigned or repealed, in whole or in part, without the express prior written consent of the Parties hereto. This Agreement may not be modified and/or amended except by written agreement signed by the Parties.

16. **Mutual Participation in Drafting Agreement.** Each Party represents it has fully participated in drafting the terms and provisions of this Agreement. Accordingly, should any later construction or interpretation of the Agreement find a purported ambiguity therein, the Agreement shall not be construed against any one Party on account of their having allegedly drafted this Agreement.

17. **Severability.** Should any provision of this Agreement be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions, conditions or covenants not so declared shall be deemed severable from the remainder of this Agreement, and shall in no way affect any other provision, covenant, condition, or promise contained herein. If any provision is deemed invalid due to scope or breadth, the provision(s) shall be deemed valid to the full extent of scope and breadth permitted by law.

18. **Waiver.** No breach of any provision of this Agreement may be waived unless done in writing. Waiver of any one breach shall not be deemed to be a waiver of any other breach of the same or any other provision.

19. **Gender and Tense.** Whenever required by the context of this Agreement, the singular shall include the plural, and the plural shall include the singular, and the masculine, feminine and neutral genders shall each include the other.

20. **Counterparts.** This Agreement may be executed electronically (i.e., DocuSign), in counterparts. Any such executed counterparts shall constitute one Agreement, which shall be binding on the Parties, even though not all Parties may have signed the original or same counterpart. Duplicates of this Agreement, or counterparts thereof, showing the execution of all Parties, shall be of the same validity, force and effect as the original. Fax and electronically transmitted signatures shall have the same force and effect as original signatures.

21. **Taxability.** It is expressly agreed and understood that the Parties have not relied upon any advice, representations or warranties from the other Party and/or their attorneys whatsoever as to the tax consequences of this Agreement. PLAINTIFF is solely responsible for any and all tax consequences of this Agreement.

22. **Compromise Not Admission.** This Agreement is intended to, and does compromise disputed claims and shall not be construed as an admission of liability by any Party of any claim made by any other Party. DEFENDANTS denies any and all wrongdoing, liability, or obligation to PLAINTIFF as to the various claims and damages asserted in the Action, or

which could have been asserted in the Action, and all such claims are denied and contested.

23. **Headings.** The headings used in this Agreement are for informational purposes only, and shall not be used to construe the intent of this Agreement.

24. **Admissibility.** The Parties acknowledge and hereby agree that this Agreement – redacted to cover monetary amounts – shall be admissible in any subsequent proceeding initiated to enforce its provisions. PLAINTIFF hereby waives any objection to the Agreement’s admissibility under California Evidence Code section 1152 or Federal Rule of Evidence 408, or any other provision of law.

25. **Code of Civil Procedure Section 664.6.** The Parties acknowledge and hereby agree that the San Diego County Superior Court shall have jurisdiction to enforce the terms and conditions of this Agreement under California Code of Civil Procedure section 664.6, and neither Party shall deny the same or claim a lack of such jurisdiction.

26. **Binding Effect.** This Agreement is binding upon and inures to the benefit of parties hereto and their respective successors, assigns, and legal representatives unless otherwise expressly set forth herein.

27. **False/Fraudulent Claims.** California law requires that the following appears on this form: “Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.” (Cal. Ins. Code § 1879.2.)

IN WITNESS WHEREOF, the Parties hereto have each approved and executed this Agreement on the dates set forth opposite their respective signatures.

Dated: _____

Plaintiff Michael Joseph Simon

Dated: 11/9/21


Defendant Christy Yan-Ching Chen

Dated: 11/9/21


Defendant A+ Dental Corporation
By: Christy Yan-Ching Chen

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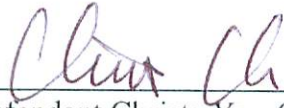
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Dated: Nov 11, 2021

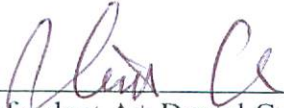

Michael Simon (Nov 11, 2021 18:36 MST)

Plaintiff Michael Joseph Simon

Dated: 11/9/21


Defendant Christy Yan-Ching Chen

Dated: 11/9/21


Defendant A+ Dental Corporation
By: Christy Yan-Ching Chen