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Attorneys for Plaintiff Eric Garcia, individually and
on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF FRESNO

ERIC GARCIA, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

LIGHTNING SOURCE LLC; INGRAM
DISTRIBUTION MANAGEMENT INC.;
INGRAM CONTENT GROUP LLC; and
DOES 1 through 25, inclusive

Defendants.

Case No. 20CECG01641

ASSIGNED FOR ALL PURPOSES TO:
The Honorable Kimberly Gaab
Department 503

CLASS AND PAGA ACTION

**NOTICE OF MOTION AND
MOTION FOR ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: May 3, 2022

Time: 3:30 p.m.

Dept: 503

Judge: Hon. Kimberly Gaab

Filed: June 10, 2020

Trial date: Not set

1 PLEASE TAKE NOTICE that on May 3, 2022 at 3:30 p.m. or as soon as the matter may
2 be heard in Department 503 of the above-captioned Court located at the B.F. Sisk Courthouse,
3 1130 O Street, Fresno, California 93721-2220, the Honorable Kimberly Gaab presiding,
4 Plaintiff Eric Garcia, on behalf of himself and the putative Class, will move this Court for an
5 Order:

6 1. Preliminarily approving the class action settlement as fair, adequate, and
7 reasonable based on the terms set forth in the Stipulation of Class Action Settlement and
8 Release of Claims (Settlement Agreement), including payment by Defendants Lightning
9 Source, LLC, Ingram Distribution Management, Inc., and Ingram Content Group, LLC, of the
10 non-reversionary \$860,000 for the benefit of the estimated 127 Class Members;

11 2. Conditionally certifying the above-captioned case as a class action for settlement
12 purposes only;

13 3. Preliminarily approving Plaintiff as the Class Representative, and preliminarily
14 approving the Class Representative Service Payment of \$10,000 for initiating and prosecuting
15 the Action on behalf of the Class, as compensation for the burdens, responsibilities, time, effort,
16 and risks involved in coming forward on their behalf and for giving a general release of all
17 claims;

18 4. Preliminarily appointing Plaintiff's Counsel, Cohelan, Khoury & Singer and
19 Lebe Law, APC as Class Counsel;

20 5. Preliminarily approving payment of reasonable attorneys' fees of \$286,666.67
21 and litigation costs of up to \$18,000 from the Gross Settlement Amount, subject to Court
22 approval at the time of the Final Approval Hearing;

23 6. Preliminarily approving the PAGA Payment of \$50,000 of which \$37,500 (75%)
24 will be paid to the California Labor Workforce and Development Agency for all applicable civil
25 penalties pursuant to California Labor Code section 2698, *et seq.*, and \$12,500 to be distributed
26 on a proportionate basis to all PAGA Members based on the number of Pay Periods Worked
27 during the PAGA Period.

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1 7. Preliminarily approving Simpluris, Inc., as the Administrator, and approving
2 distribution of an amount not to exceed \$5,000 from the Gross Settlement Amount to cover its
3 expenses in administering this Settlement;

4 8. Approving the proposed Notice of Class Action Settlement (Notice), and
5 directing distribution of the Notice and Change of Address form, together with a pre-printed
6 return envelope (collectively, Notice Packet) to all members of the Class. The Notice advises
7 the Class of the pendency of Class Action, the proposed Settlement, the timing, manner and
8 procedure for objections, requests for exclusion, of the automatic payment of their share of the
9 Settlement funds without a claim form and the releases to be given in exchange for such
10 payment, and of the final approval hearing date, time and place; and

11 9. Setting a hearing date to consider the final approval of the Settlement, and
12 Class Counsels' application for attorneys' fees, litigation costs, the Class Representative Service
13 Payment, and the Administrator's fees.

14 This motion is based on this Notice of Motion, the Memorandum of Points and
15 Authorities in Support, Declarations of Class Counsel Diana M. Khoury and Jonathan M. Lebe,
16 Declaration of Plaintiff Eric Garcia, Declaration of Eric Springer, on behalf of Simpluris, Inc.,
17 the Stipulation of Class Action Settlement and Release of Claims, and the [Proposed] Order
18 Granting Preliminary Approval of Class Action Settlement, the Court's files in this matter, and
19 any other documents or evidence which the Court may consider at the hearing.

20 LEBE LAW, APC
21 COHELAN KHOURY & SINGER

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23 Dated: December 2, 2021

24 By: _____



Diana M. Khoury

Rosemary C. Khoury

25 Attorneys for Plaintiff Eric Garcia, individually and on
26 behalf of all others similarly situated
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