

1 Galen T. Shimoda (Cal. State Bar No. 226752)
Justin P. Rodriguez (Cal. State Bar No. 278275)
2 Brittany V. Berzin (Cal. State Bar No. 325121)
3 Jessica L. Hart (Cal. State Bar No. 331441)

Shimoda Law Corp.

4 9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
5 Telephone: (916) 525-0716
Facsimile: (916) 760-3733

6 Attorneys for Plaintiff CHAZ PEREZ individually and on behalf of similarly situated employees

7 Laura C. McHugh
8 Samantha J. Tanner
Duggan McHugh Law Corporation
9 641 Fulton Avenue, Suite 100
Sacramento, CA 95825

10 Attorneys for HUMBLE ROOT INTERNATIONAL, INC., JAVIER HERNANDEZ, CHRIS THAO,
11 and JUSTIN JACINTO

12 **SUPERIOR COURT OF CALIFORNIA**
13 **FOR THE COUNTY OF SACRAMENTO**

14 CHAZ PEREZ, individually and on behalf of
15 all other similarly situated employees,

16 Plaintiff,

17 vs.

18 TOO INFINITY MANAGEMENT, LLC, a
19 California Limited Liability Company;
HUMBLE ROOT INTERNATIONAL, INC., a
20 California Corporation; JAVIER
21 HERNANDEZ, an individual; CHRIS THAO,
an individual; JUSTIN JACINTO, an
22 individual; and DOES 1 to 100, inclusive,

23 Defendants.

Case No.: 34-2020-00285276

**PRIVATE ATTORNEYS GENERAL ACT
SETTLEMENT**

Filed: September 15, 2020

FAC Filed: May 18, 2021

Trial Date: None Set

1 This Private Attorneys General Act Settlement (“Agreement”) is made and entered into between
2 the Plaintiff Chaz Perez (“Plaintiff”), on behalf of himself, the Labor and Workforce Development
3 Agency, and Aggrieved Employees, and Defendants Humble Root International, Inc., Javier Hernandez,
4 Chris Thao, and Justin Jacinto (“Defendants”). This Agreement is subject to the terms and conditions set
5 forth below and approval of the Court.

6 **1. DEFINITIONS**

7 The following terms, when used in this Agreement, have the following meanings:

8 1.1 “Action” means the above stated lawsuit, *Perez v. Too Infinity Management, LLC, et al.*,
9 Sacramento County Superior Court, Case No. 34-2020-00285276, filed September 15, 2020.

10 1.2 “Aggrieved Employee(s)” means all of Defendants’ hourly, non-exempt employees who
11 have or continue to work for Defendants in California during the PAGA Claim Period. The estimated
12 number of Aggrieved Employees is 61.

13 1.3 “Claim Amount” means an individual Aggrieved Employees’ allocation of the Net
14 Settlement Amount, as defined in Section 1.15 and 5.7-5.9.

15 1.4 “Claims Administrator” means and refers to Simpluris, Inc., the third-party entity that will
16 administer the Agreement as outlined in Section 7.

17 1.5 “Claims Administrator Costs” means the fees and expenses reasonably incurred by the
18 Claims Administrator as a result of the procedures and processes expressly required by this Agreement,
19 and shall include all costs of administering the Agreement, including, but not limited to, all tax document
20 preparation, custodial fees, and accounting fees incurred by the Claims Administrator; all costs and fees
21 associated with preparing, issuing and mailing any and all notices and other correspondence to Aggrieved
22 Employees; all costs and fees associated with communicating with Aggrieved Employees, Plaintiff’s
23 Counsel, and Defendants’ Counsel; all costs and fees associated with computing, processing, reviewing,
24 and paying the Claim Amounts, and resolving disputes; all costs and fees associated with calculating tax
25 withholdings and payroll taxes, if any, making related payment to federal and state tax authorities, if any,
26 and issuing tax forms relating to payments made under the Agreement; all costs and fees associated with
27 preparing any tax returns and any other filings required by any governmental taxing authority or agency;
28 all costs and fees associated with preparing any other notices, reports, or filings to be prepared in the

1 course of administering Claim Amounts; and any other costs and fees incurred and/or charged by the
2 Claims Administrator in connection with the execution of its duties under this Agreement.

3 1.6 “Complaint” means the operative Complaint on file in the Action with the Court.

4 1.7 “Court” means the Sacramento County Superior Court.

5 1.8 “Defendants” means Humble Root International, Inc., Javier Hernandez, Chris Thao, and
6 Justin Jacinto.

7 1.9 “Defendants’ Counsel” means Laura C. McHugh and Samantha J. Tanner of Duggan
8 McHugh Law Corporation.

9 1.10 “Enhancement Payment” means the amount approved by the Court to be paid to Plaintiff
10 in recognition of the time and effort he expended on behalf of Aggrieved Employees and the LWDA for
11 the benefit of Aggrieved Employees and the LWDA, which is in addition to any Claim Amount paid to
12 Plaintiff as an Aggrieved Employee.

13 1.11 “Effective Date” means either (a) the 40th calendar day after a signed order approving this
14 Agreement has been filed provided no motion to vacate the judgment, appeal, writ or other appellate
15 proceeding having been filed; or (b) the seventh (7th) calendar day after any motion to vacate the
16 judgment, appeal, writ, or other appellate proceeding opposing the Agreement has been finally dismissed
17 with no material change to the terms of this Agreement and here is no right to pursue further remedies or
18 relief, whichever is later.

19 1.12 “Final Approval Date” means the date the Court enters a signed order granting approval of
20 the Agreement.

21 1.13 “Gross Settlement Amount” is the sum of ninety thousand dollars (\$90,000).

22 1.14 “LWDA” means the California Labor and Workforce Development Agency.

23 1.15 “Net Settlement Amount” is the portion of the Gross Settlement Amount available for
24 distribution between Aggrieved Employees and the LWDA pursuant to Labor Code section 2699(i), after
25 deduction of Plaintiff’s attorneys’ fees and litigation costs, the Enhancement Payment, and the Claims
26 Administrator Costs.

27 1.16 “Notice of Settlement” means the document substantially in the form attached hereto as
28 Exhibit 1.

1.17 “PAGA” means Private Attorneys General Act.

1.18 “PAGA Claim Period” means July 2, 2019, to the date a signed order approving the Agreement has been filed with the court.

1.19 “PAGA Payment” means the 75% share of the Net Settlement Amount paid to the LWDA pursuant to Labor Code section 2699(i).

1.20 “Parties” mean Defendants and Plaintiff.

1.21 “Plaintiff” means Chaz Perez.

1.22 “Plaintiff’s Counsel” means Galen T. Shimoda and Jessica L. Hart of the Shimoda Law Corp.

1.23 “QSF” means a Qualified Settlement Fund set up by the Claims Administrator for the benefit of the Aggrieved Employees and from which the payments under this Agreement shall be made. Any amounts Defendants have agreed to pay under this Agreement shall remain the property of Defendants until the payments required under the Agreement are made.

1.24 “Qualifying Pay Periods” are pay periods worked by Aggrieved Employees during the PAGA Claim Period. The calculation of an Aggrieved Employees’ pay periods and a determination as to whether an Aggrieved Employee was actively employed in California in a particular pay period shall be construed from Defendants’ records.

1.25 “Releasees” means Defendants, as well as Defendants’ officers, shareholders, directors, agents, employees, affiliated Companies, including without limitation Too Infinity Management, LLC DBA Humble Root, Humble Root For the Patients, and Humble Root Worldwide, Inc., attorneys, and insurers.

1.26 “Released PAGA Claims” means all claims pled against Defendants in the Complaint, *i.e.* claims for civil penalties under the Private Attorneys General Act, Cal. Lab. Code §§ 2698 *et seq.* predicated on violations of violation of Labor Code sections 1194, 1197.1, and Wage Order No. 7, § 4 (failure to pay minimum wages); violation of Labor Code sections 226.7, 512 and Wage Order No. 7, §§ 11(A) and 11(B) (failure to provide meal periods or pay premiums in lieu thereof); violation of Labor Code sections 201-203, and 256 (failure to pay final wages); violation of Labor Code sections 226 and 226.3 (failure to provide accurate wage statements); violation of Labor Code sections 558 and 558.1

(violation of provision regulating hours and days of work in any Industrial Welfare Commission Order); violation of Labor Code sections 226.3 and 1174 (failure to maintain accurate time records); violation of Labor Code sections 510, 1194, and Wage Order No. 7, § 3 (failure to pay overtime wages); violation of Labor Code sections 226.7 and 512 and Wage Order No. 7, §§ 12(A) and 12(B) (failure to provide rest periods or pay premiums in lieu thereof); violation of Labor Code § 2802 (failure to pay reimbursement for expenses); and violation of Labor Code sections 246, 246.5, and 248.5 (failure to provide paid sick leave). This release shall extend through the PAGA Claim Period. However, the Released PAGA Claims shall not extend to any PAGA claims outside of those asserted in the Action or the PAGA Claim Period.

2. DESCRIPTION OF THE LITIGATION

2.1 On or about July 2, 2020, Plaintiff sent notice to the LWDA to exhaust administrative remedies under the PAGA for failure to pay overtime wages, failure to pay minimum wages, failure to provide meal periods or pay premiums, failure to provide rest periods or pay premiums, failure to provide accurate wage statements, failure to pay final wages, failure to pay reimbursement for expenses, violations of provisions regulating hours and days of work in any Industrial Welfare Commission order, failure to maintain accurate records, and failure to provide paid sick leave. The LWDA did not respond to the notice within the statutorily required time frame and, as such, Plaintiff became authorized to act as a Private Attorneys General on all alleged PAGA claims.

2.2 After exhausting administrative remedies, Plaintiff filed a Complaint on September 15, 2020, in Sacramento County Superior Court on behalf of himself and Aggrieved Employees for claims alleged in the July 2, 2020 notice to the LWDA.

2.3 Through informal discovery, Defendants and Defendants' Counsel provided Plaintiff's Counsel with copies of all applicable versions of its policies and procedures, employee handbooks, information on the number of Aggrieved Employees, including, but not limited to, Aggrieved Employees' workweeks, dates of employment, total number of Aggrieved Employees, average rate of pay, and pay periods as well as timecard data for a randomly selected sample of Aggrieved Employees.

1 2.4 On June 28, 2021, the Parties participated in a lengthy mediation with a private mediator
2 David Perrault. At the conclusion of the mediation, the Parties were able to come to a resolution. At all
3 times, the Parties' settlement negotiations have been non-collusive, adversarial, and at arm's length.

4 2.5 Discussions between Plaintiff and Plaintiff's Counsel, between counsel for the Parties, the
5 mediator, document productions, extensive legal analysis, the provision of information by Defendants to
6 Plaintiff and the detailed analysis of the sampled records have permitted each side to assess the relative
7 merits of the PAGA claims and the defenses to those claims.

8 2.6 In the Action, Plaintiff contends that Defendants violated California law by 1) failing to
9 pay minimum wages, 2) failing to provide meal periods or premiums in lieu thereof, 3) failing to pay final
10 wages, 4) failing to provide accurate wage statements, 5) violating provisions regulating hours and days
11 of work in any Industrial Welfare Commission order, 6) failing to maintain accurate time records, 7)
12 failing to pay overtime wages, 8) failing to provide rest periods or premiums in lieu thereof, 9) failing to
13 reimburse expenses, and 10) failing to provide paid sick leave. Defendants have denied each of Plaintiff's
14 claims. The agreed upon Gross Settlement Amount was reached after evaluating the Parties' theories of
15 potential exposure for the PAGA claims. The Parties, with the assistance of the mediator, also assessed
16 appropriate discounts to the potential liability based on Defendants' factual and legal contentions and
17 defenses. Plaintiff was given information pertaining to Defendants' financial condition, which enabled
18 Plaintiff to assess whether the Gross Settlement Amount was adequate and reach a definitive
19 determination that continued litigation would not result in a more favorable settlement.

20 2.7 The Parties agree that the above-described investigation and evaluation, as well as
21 discovery and the information exchanged to date, are more than sufficient to assess the merits of the
22 respective Parties' positions and to compromise the issues on a fair and equitable basis. Plaintiff,
23 Plaintiff's Counsel, Defendants, and Defendants' Counsel have concluded that it is desirable that the
24 PAGA claims asserted in the Action be settled in a manner and upon such terms and conditions set forth
25 herein in order to avoid further expense, inconvenience and distraction of further legal proceedings, and
26 the risk of an adverse outcome each of the Parties potentially face. Plaintiff, Plaintiff's Counsel,
27 Defendants, and Defendants' Counsel are of the opinion that the Agreement for the consideration and
28 terms set forth herein is fair, reasonable, and adequate in light of all known facts and circumstances.

1 **3. THE CONDITIONAL NATURE OF THIS AGREEMENT**

2 3.1 This Agreement and all associated exhibits or attachments are made for the sole purpose
3 of settling the PAGA claims asserted in the Action. This Agreement and the settlement it evidences are
4 made in compromise of disputed claims. The Parties enter into this Agreement and associated settlement
5 on a conditional basis in order for the Court to evaluate and approve the settlement. If the Court does not
6 enter an order approving the Agreement, this Agreement shall be deemed null and void; it shall be of no
7 force or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and the
8 negotiation, terms and entry of the Agreement shall remain subject to the provisions of California
9 Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other analogous rules of
10 evidence that may be applicable.

11 3.2 Defendants have denied all claims as to liability, damages, liquidated damages, penalties,
12 interest, fees, restitution, injunctive relief and all other forms of relief asserted in the Action. Defendants
13 have agreed to resolve the asserted PAGA claims in the Action via this Agreement, but to the extent this
14 Agreement is deemed void or the Final Approval Date does not occur, Defendants do not waive, and are
15 expressly reserving, all rights to challenge all such claims and allegations in the Action upon all procedural
16 and factual grounds, including, without limitation, the ability to challenge representative or collective
17 treatment on any grounds, as well as to assert any and all other potential defenses or privileges.

18 **4. SCOPE OF THE AGGRIEVED EMPLOYEES**

19 4.1 The scope of individuals encompassed under the Agreement, who are entitled to all benefits
20 as authorized under the Agreement and subject to all obligations and duties required under the Agreement,
21 shall include all Aggrieved Employees as defined in Section 1.2.

22 4.2 Aggrieved Employees entitled to recover under this Agreement will include only those
23 individuals who are identified in Defendants' records as having worked as an Aggrieved Employee.

24 **5. TERMS OF THE SETTLEMENT**

25 The Parties agree as follows:

26 5.1 Gross Settlement Amount: In consideration and exchange for the releases described in
27 Section 6, Defendants shall pay the Gross Settlement Amount (\$90,000). Funding of the Gross Settlement
28 Amount shall occur within ten (10) days after a signed order has been filed approving this Agreement, or

September 1, 2021, whichever is later. The Gross Settlement funds are to be held in trust in a QSF by the Claims Administrator until the Effective Date. The Gross Settlement Amount represents the maximum amount payable under this Agreement by Defendants, and includes without limitation, all Aggrieved Employee payments, payment to the LWDA, enhancement payment to the Plaintiff, attorneys' fees, costs and litigation expenses directly related to the Action incurred to date, as well as all such fees and costs incurred in documenting the Agreement, administering the Agreement (including Claims Administrator Costs), and obtaining approval of the Agreement.

5.2 Attorneys' Fees and Costs: Plaintiff's Counsel will apply to the Court for attorney's fees of 35% or \$31,500 of the Gross Settlement Amount, which shall be paid from the Gross Settlement Amount. Defendants have agreed to not oppose Plaintiff's Counsel's application for attorneys' fees so long as it does not exceed the \$31,500 threshold. Plaintiff's Counsel will also be entitled to reimbursement for advanced litigation expenses not to exceed \$10,000, which shall be paid from the Gross Settlement Amount. Defendants have agreed to not oppose Plaintiff's Counsel's request for reimbursement for advanced litigation expenses so long as they do not exceed the \$10,000 threshold. The Claims Administrator will issue Class Counsel an IRS Form 1099 for the attorneys' fees and costs paid under this Agreement. In the event that the Court awards less than the requested attorney's fees and/or costs, the portion of the requested amounts not awarded to Plaintiff's Counsel shall be added to the Net Settlement Amount as defined in section 1.15.

5.3 Aggrieved Employee Enhancement Payment: Defendants will not oppose Plaintiff's Counsel's request for an enhancement payment for Plaintiff Chaz Perez in the amount of \$10,000, which will be paid out of the Gross Settlement Amount, not in addition to the Gross Settlement Amount.

5.4 Claims Administrator Costs: The Claims Administrator Costs shall be paid from the Gross Settlement Amount and shall not exceed \$3,500. The difference between any actual costs and the allocated \$3,500 shall be added to the Net Settlement Amount.

5.5 Treatment of Residue and Cy Pres: For any portion of the Net Settlement Amount allocated to Aggrieved Employees that was not claimed by Aggrieved Employees by cashing their respective settlement checks before the deadline to do so, that remaining amount shall be donated to the Center for Workers Rights. No portion of the Gross Settlement Amount will revert to Defendants for any reason.

1 5.6 No Additional Benefits Contributions: All Claim Amounts paid to Aggrieved Employees
2 shall be deemed to be income solely in the year in which such amounts were actually received by
3 Aggrieved Employees. It is expressly understood and agreed that the receipt of such Claim Amounts will
4 not entitle any Aggrieved Employee to any new or additional compensation or benefits under any company
5 bonus or other compensation or benefit plan or agreement in place during the period covered by the
6 Agreement, nor will it entitle any Aggrieved Employee to any increased retirement, 401(k) benefits or
7 matching benefits, or deferred compensation benefits. It is the intent of this Agreement that the Claim
8 Amounts provided for in this Agreement are the sole payments to be made by Defendants to the Aggrieved
9 Employees in connection with this Agreement (notwithstanding any contrary language or agreement in
10 any benefit or compensation plan document that might have been in effect during the period covered by
11 this Agreement).

12 5.7 Tax Allocation: The Parties recognize that the Claim Amounts to be paid to Aggrieved
13 Employees reflect settlement of a dispute over claimed penalties. The characterization of Claim Amounts
14 to Aggrieved Employees are as follows:

15 5.8 One Hundred percent (100%) of each Aggrieved Employees' Claim Amount shall be
16 allocated for payment of disputed civil penalties. This portion of the Claim Amount consists of other
17 income, not wages, for which the Aggrieved Employees shall receive an IRS form 1099.

18 5.9 Aggrieved Employees shall be solely responsible for the reporting and payment of their
19 share of any federal, state and/or municipal income or other taxes on payments made pursuant to this
20 Agreement. No party has made any representation to any of the other Parties as to the taxability of any
21 payments pursuant to this Agreement, including the payments to Aggrieved Employees, the payments to
22 Plaintiff's Counsel, or otherwise as to tax implications of any provision of this Agreement.

23 5.10 Pro Rata Distribution Formula: After Court approved attorneys' fees and costs, Plaintiff
24 enhancement, and Claims Administrator Costs are determined and a Net Settlement Amount has been
25 established, that Net Settlement Amount shall be divided between the PAGA Payment and payment to
26 Aggrieved Employees. The PAGA Payment to the LWDA will be 75% of the Net Settlement Amount.
27 25% of the Net Settlement Amount will be paid to Aggrieved Employees. Each individual Aggrieved
28 Employees' Claim Amount shall be determined by taking the Qualifying Pay Periods for the individual

Aggrieved Employee and dividing that by the Qualifying Pay Periods for all Aggrieved Employees and multiplying that fraction by the 25% share of the Net Settlement Amount. Payment to Aggrieved Employees of their Claim Amount will not require the submission of any claim form.

5.11 No Additional Contribution by Defendants: Defendants' monetary obligation under this Agreement is limited to the Gross Settlement Amount as described above. All other costs and expenses arising out of or in connection with the performance of this Agreement shall be paid from the Gross Settlement Amount, unless expressly provided otherwise herein. However, in the event this agreement is deemed null and void as described in Section 3 for any reason then Defendants and Plaintiff shall be equally responsible for the Claims Administrator Costs incurred between the date the Agreement was executed and the date of such event.

6. RELEASE

6.1 Upon the Effective Date, Plaintiff and each Aggrieved Employee shall be deemed to have fully, finally, and forever released the Releasees from all Released PAGA Claims.

6.2 Plaintiff agrees to fully release Defendants Humble Root International, Inc., Javier Hernandez, Chris Thao, and Justin Jacinto and each of its past and present owners, principals, directors, shareholders, officers, employees, agents, representatives, affiliated companies (including without limitation Too Infinity Management, LLC DBA Humble Root, Humble Root For the Patients, and Humble Root Worldwide, Inc.), parent companies, subsidiaries, alter egos, joint venturers, successors, predecessors, and all other persons and entities acting on their behalf, from any and all claims, actions, suits, demands, obligations, damages, costs and expenses (including any claim for attorneys' fees), and/or causes of action of any and every kind, nature or character whatsoever, known or unknown, suspected or unsuspected, fixed or contingent, apparent or concealed, and whether specifically mentioned or not, which may exist or might be claimed to exist at or prior to the date of this Agreement, arising from and in any way connected to or with the instant Actions, the employment relationship between the parties, any actions taken during the employment relationship, the termination of that relationship, and any other dealing of any kind between the parties, including, without limitation, any claim based in tort, contract, common law, claims pursuant to state or federal Constitutions, or claims pursuant to state or federal statutes, any claim filed with any administrative agency, wage and hour claims, claims for missed meal or rest periods,

1 alleged failure to pay overtime, and PAGA claims, as well as all claims for physical or mental injuries,
2 illness or damage, and all claims for attorneys' fees, costs and expenses, as well as all claims, grievances,
3 claims and/or appeals under the Company's internal administrative review procedures, but excluding any
4 claims that cannot lawfully be waived or released by private agreement. Plaintiff further agrees to a release
5 pursuant to Civil Code section 1542. This release shall only take effect upon approval of the PAGA
6 settlement with the Court.

7 **7. SETTLEMENT ADMINISTRATION**

8 7.1 Duties of Claims Administrator: The Claims Administrator shall be responsible for: 1)
9 receiving and reviewing for accuracy Aggrieved Employee contact information; 2) calculating estimated
10 Claim Amounts and any and all applicable taxes associated with the Claim Amount; 3) taking appropriate
11 steps to trace and locate any individual Aggrieved Employees whose address or contact information as
12 provided to the Claims Administrator is inaccurate or outdated and mailing the Notice of Settlement to
13 Aggrieved Employees; 4) providing notification to the appropriate state officials of this Agreement as
14 required; 5) maintaining the Gross Settlement Amount in a QSF; 6) determining and paying the final
15 amounts due to be paid under the Agreement after resolution of awarded attorneys' fees and costs,
16 Enhancement Payment, and Claims Administrator Costs; 7) paying any residual funds from uncashed
17 checks to the *cy pres* beneficiary; 8) reporting to Plaintiff's Counsel and Defendants' Counsel regarding
18 the statistics of the administration, including (a) the number of initial Notice of Settlements mailed; (b)
19 the number of forwarded Notice of Settlements; (c) the number of re-mailed Notice of Settlements; (d)
20 the number of total undeliverable Notice of Settlements; (e) the number of address traces performed for
21 undeliverable Notice of Settlements; (g) the number of Notice of Settlements undeliverable from traced
22 addresses; 13) providing a declaration to the Court regarding the final statistics of the administration and
23 compliance with all payment obligations under the Agreement; 14) completing all necessary tax reporting
24 on the QSF and payment of the Claim Amounts to Aggrieved Employees; and 15) carrying out other
25 related tasks as necessary to effectuate the terms of this Agreement and any Order of the Court. All
26 disputes relating to the Claims Administrator's ability and need to perform its duties shall be referred to
27 the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this
28 Agreement, until all payments and obligations contemplated by the Agreement have been fully executed.

1 7.2 Aggrieved Employee Data: No later than twenty-one (21) calendar days after the Final
2 Approval Date, Defendants shall provide the Claims Administrator with the name, last known mailing
3 address, last known telephone number, Social Security Number, Qualifying Pay Periods, and start and end
4 date of employment (if any) of each Aggrieved Employee. The Claims Administrator shall review the
5 data to determine the number of Qualifying Pay Periods for each Aggrieved Employee. Defendants shall
6 not provide any information for pay periods during which an Aggrieved Employee may have worked as
7 an exempt employee, worked outside California, or worked outside the PAGA Claim Period. The Claims
8 Administrator shall maintain all information received from Defendants confidential to itself, and
9 Defendants' Counsel. However, Plaintiff's Counsel shall be able to review the breakdown of Qualified
10 Pay Periods and estimated Claim Amounts for Aggrieved Employees prior to mailing for quality
11 assurance.

12 7.3 Determination of Payments to Aggrieved Employees, Plaintiff's Counsel, and the LWDA:
13 Within fourteen (14) calendar days after Defendants have provided the Claims Administrator with
14 information regarding Aggrieved Employees, the Claims Administrator shall calculate the final Net
15 Settlement Amount, PAGA Payment, and the final Claim Amounts for Aggrieved Employees, and report
16 the results of these calculations to Plaintiff's Counsel and Defendants' Counsel.

17 7.4 Delivery of Gross Settlement Amount and Claims Administrator Payments to Aggrieved
18 Employees, Plaintiff's Counsel, Plaintiff, and the LWDA: Defendants shall meet Plaintiff's Counsel at
19 River City Bank, located at 8923 Elk Grove Blvd., Elk Grove, CA, for funding of the Gross Settlement
20 Amount as described in Section 5.1 within ten (10) days after a signed order has been filed with the court
21 approving this Agreement, or September 1, 2021, whichever is later. Plaintiff's Counsel will deposit the
22 Gross Settlement Amount into a client trust account to be immediately transferred to the Claims
23 Administrator who will hold the Gross Settlement Amount in trust in a QSF. On the Effective Date, the
24 Claims Administrator shall deliver payment of Plaintiff's Counsels' attorney's fees and costs, Plaintiff's
25 enhancement payment, the PAGA Payment payable to the LWDA, Claims Administrator Costs, and
26 payment for Claim Amounts to Aggrieved Employees as required under this Agreement and approved by
27 the Court. Plaintiff's Counsel shall provide the Claims Administrator with the pertinent taxpayer
28

1 identification number and payment instructions for the attorney's fees and costs after the Final Approval
2 Date.

3 7.5 Notice to Aggrieved Employees: The Claims Administrator will provide a Notice of
4 Settlement, substantially in the form attached as Exhibit 1, to each Aggrieved Employee concurrently with
5 providing payment for Claim Amounts as described in Section 7.4. The Notice of Settlement will inform
6 Aggrieved Employees of a summary of the terms and conditions of the Agreement. The Notice of
7 Settlement will also inform Aggrieved Employees of the Gross Settlement Amount, Net Settlement
8 Amount, attorneys' fees and costs allocations, Claims Administrator Cost allocations, PAGA Payment
9 allocations, the scope of individuals covered by this Agreement, and the nature and extent of the Released
10 PAGA Claims.

11 7.6 Aggrieved Employee Mailing: On the Effective Date, the Claims Administrator will
12 perform a national change of address ("NCOA") search, update the addresses per the results of the NCOA
13 search and will mail the respective payment for Claim Amounts, as determined in Section 7.3 and Notice
14 of Settlement, to each Aggrieved Employee by first-class mail, postage prepaid.

15 7.7 Returned and/or Re-mailed Notice Packets: In the event that a Notice of Settlement and
16 Claim Amount payment is returned to the Claims Administrator as non-delivered, the Notice of Settlement
17 and Claim Amount payment shall be sent to the forwarding address affixed thereto within seven (7)
18 calendar days. If no forwarding address is provided, then the Claims Administrator shall promptly attempt
19 to determine a correct address using a single skip-trace, computer or other search using the name, address
20 and/or Social Security number of the individual involved, and shall then perform a single re-mailing within
21 seven (7) calendar days. Following each search that does not result in a corrected address, for those
22 Aggrieved Employees who appear to be current employees of Defendants at the time of the Effective
23 Date, the Claims Administrator shall contact Defendants' Counsel for assistance and Defendants shall
24 cooperate in good faith with the Claims Administrator's reasonable efforts to obtain valid mailing
25 addresses for Aggrieved Employees to the extent they were active employees of Defendants at the time of
26 the Effective Date. In the event the procedures in this paragraph are followed and the intended recipient
27 of a Notice of Settlement and Claim Amount payment still does not receive the Notice of Settlement and/or
28 Claim Amount payment, the Aggrieved Employee shall still be bound by all terms of the Agreement,

1 including the releases contained in Sections 1.25, 6.1, and 6.2, and any final judgment entered by the
2 Court.

3 7.8 Due Process Acknowledgement: Compliance with the procedures set forth in Sections 7.1
4 to 7.7 shall constitute due and sufficient notice to Aggrieved Employees of the Action and the Agreement
5 and shall satisfy Aggrieved Employees' due process rights. Nothing else shall be required of the Parties,
6 Plaintiff's Counsel, or Defendants' Counsel to provide notice of the Agreement except as expressly
7 required by the Court.

8 7.9 Settlement Check Expiration and Cy Pres: The Claims Administrator shall issue Claim
9 Amounts to Aggrieved Employees in the form of a check, which shall become null and void if not
10 deposited within one hundred twenty (120) calendar days of issuance. After one hundred twenty (120)
11 calendar days of issuance, the checks shall be voided and funds from all undeposited checks shall be
12 transmitted to the *cy pres* beneficiary identified in Section 5.5. The Claims Administrator shall deliver
13 the *cy pres* funds within fourteen (14) calendar days after the check cashing deadline.

14 7.10 Claims Administrator Declaration Regarding Settlement Administration: Within twenty-
15 one (21) days after the last day for Aggrieved Employees to cash their settlement checks, the Claims
16 Administrator shall provide Plaintiff's Counsel and Defendants' Counsel with a signed declaration under
17 penalty of perjury providing a complete and detailed report regarding the settlement administration and
18 that all the obligations of the Claims Administrator have been completed.

19 **8. SETTLEMENT ADMINISTRATION SCHEDULE**

20 8.1 The schedule may be modified depending on whether and when the Court grants necessary
21 approvals, orders notice to Aggrieved Employees, and sets further hearings, if any. The schedule may
22 also be modified to correct clerical errors and to reflect the provisions in the Agreement as described
23 above. In the event of such modification, the Parties shall cooperate to complete the settlement procedures
24 as expeditiously as reasonably practicable. The schedule for notice and payment procedures carrying out
25 the Agreement is as follows.
26
27
28

Last day for Defendants to provide Claims Administrator with Aggrieved Employee information	21 calendar days after Final Approval Date
Last day for Defendants to fund Gross Settlement Amount	Within 10 days after a signed order has been filed approving this Agreement or September 1, 2021, whichever is later
Last day for Claims Administrator to calculate and report to Parties the Net Settlement Amount, PAGA Payment, and Claim Amounts for Aggrieved Employees	Within 14 calendar days of receiving Aggrieved Employee information
Last day for Claims Administrator to complete NCOA search, update Aggrieved Employee mailing information, and complete mailing	On the Effective Date. <i>See</i> Section 1.11.
Last day for Claims Administrator to deliver payment of Plaintiff's Counsel's attorney's fees and costs, PAGA Payment, Claims Administrator Costs, and payment to Aggrieved Employees	On the Effective Date
Last day for Aggrieved Employees to cash settlement checks	120 days after issuance of checks to Aggrieved Employees
Last day for Claims Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiary	Within 14 days after settlement check cashing deadline
Last day for Claims Administrator to provide Parties with compliance declaration	Within 21 days after settlement check cashing deadline

1 **9. MISCELLANEOUS TERMS**

2 9.1 Dismissal and Retention of Jurisdiction to Enforce: Upon the Final Approval Date, the
3 Released PAGA Claims will be dismissed with prejudice, with the Court to retain jurisdiction over the
4 parties to enforce the terms therein pursuant to Civil Procedure Code section 664.6. The prevailing party
5 in any action to enforce the terms of the Agreement shall be entitled to reasonable attorneys' fees and
6 costs. The Parties agree to meet and confer in good faith to resolve any issue before any such motion for
7 attorney's fees and costs is filed.

8 9.2 Additional Pay Period Contingency: Defendants have represented that there are no more
9 than 1728 pay periods during the PAGA Claim Period. In the event the number of pay periods during
10 the PAGA Claim Period is more than 1901 (i.e., greater than 10% more than 1728), then the Gross
11 Settlement Amount shall be increased proportionally by the pay periods in excess of 1728, multiplied
12 by the pay period value. For example, if there were 11,900 pay periods represented to exist during the
13 PAGA Claim Period, but there are actually 15,000 pay periods in the PAGA Claim Period, and the
14 actual pay period value is \$5.00 per pay period, Defendants would have to increase the Gross Settlement
15 Amount by \$15,500.00 (15,000 pay periods – 11,900 pay periods = 3,100 pay periods x \$5.00/pay
16 period).

17 9.3 Mutual Cooperation: The Parties agree to cooperate fully with one another to accomplish
18 and implement the terms of this Agreement. Such cooperation shall include, but not be limited to,
19 execution of such other documents and the taking of such other action as may reasonably be necessary to
20 fulfill the terms of this Agreement. The Parties to this Agreement shall use their best efforts, including
21 all efforts contemplated by this Agreement and any other efforts that may become necessary by Court
22 order, or otherwise, to effectuate this Agreement and the terms set forth herein. This may include
23 modifying and/or resubmitting the Agreement for approval. Plaintiff's Counsel shall be responsible for
24 drafting the court approval paperwork. All parties agree to act immediately and diligently to perform their
25 obligations under this Agreement, including the review and approval of settlement documents, such that
26 there are no substantial delays in seeking court approval or administration of this settlement. Plaintiff's
27 Counsel shall endeavor to file a motion for approval of this settlement within 60 days of the date this
28 Agreement is signed. Plaintiff's Counsel shall provide Defendants' Counsel with a draft approval motion

1 within 1 week after this Agreement is fully executed. Defendants' Counsel will provide comments and/or
2 proposed revisions within 1 week after receipt of the draft motion.

3 9.4 No Admission of Liability: Neither the acceptance nor the performance by Defendants of
4 the terms of this Agreement, nor any of the related negotiations or proceedings, is or shall be claimed to
5 be, construed as, or deemed to be, an admission by Defendants of the truth of any of the allegations in the
6 Complaint, the representative character of the Action, the validity of any of the claims that were or could
7 have been asserted by Plaintiff and/or Aggrieved Employees in the Action, or of any liability or guilt of
8 Defendants in the Action. Nothing in this Agreement shall be construed to be or deemed an admission by
9 Defendants of any liability, culpability, negligence, or wrongdoing toward Plaintiff, the Aggrieved
10 Employees, or any other person, and Defendants have specifically disclaimed any liability, culpability,
11 negligence, or wrongdoing toward Plaintiff, the Aggrieved Employees, or any other person. Each of the
12 Parties has entered into this Agreement with the intention to avoid further disputes and litigation.

13 9.5 Notices: Unless otherwise specifically provided herein, all notices, demands, or other
14 communications given hereunder shall be in writing and shall be deemed to have been duly given as of
15 the third business day after mailing by United States certified mail, return receipt requested, addressed as
16 follows:

17 To the Plaintiff:

18 Galen T. Shimoda
19 Justin P. Rodriguez
20 Brittany V. Berzin
21 Jessica L. Hart
22 Shimoda Law Corp.
23 9401 East Stockton Blvd., Suite 120
24 Elk Grove, CA 95624

25 To Defendants:

26 Laura C. McHugh
27 Samantha J. Tanner
28 Duggan McHugh Law Corporation
641 Fulton Avenue, Suite 100
Sacramento, CA 95825

9.6 Mutual Drafting of Agreement: The Parties hereto agree that the terms and conditions of
this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that

1 this Agreement shall not be construed in favor of or against any party by reason of the extent to which any
2 party or its counsel participated in the drafting of this Agreement.

3 9.7 Binding Effect of Agreement: The Parties, by signing this Agreement, are bound by the
4 terms herein. The Parties waive their rights to file an appeal, writ, or any challenge whatsoever to the
5 terms of this Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties
6 hereto and their respective heirs, trustees, executors, Claims Administrators, successors, and assigns.

7 9.8 Attorneys' Fees and Costs Limitations: Neither Plaintiff's Counsel nor any other attorneys
8 acting for, or purporting to act for, Aggrieved Employees, or Plaintiff, may recover or seek to recover any
9 amounts for fees, costs, or disbursements from the Releasees or the Gross Settlement Amount except as
10 expressly provided herein.

11 9.9 No Modifications: This Agreement may not be changed, altered, or modified, except in
12 writing signed by the Parties hereto and approved by the Court. This Agreement may not be discharged
13 except by performance in accordance with its terms.

14 9.10 Counterparts: This Agreement shall become effective upon its execution by all of the
15 undersigned. Plaintiff, Plaintiff's Counsel, Defendants and Defendants' Counsel may execute this
16 Agreement in counterparts, and execution of counterparts shall have the same force and effect as if each
17 had signed the same instrument. Facsimile, electronic, and/or scanned copies of signatures shall have the
18 same force and effect of originals.

19 9.11 Choice of Law: The Agreement and the exhibits hereto shall be considered to have been
20 negotiated, executed, and delivered, and to have been wholly performed, in the State of California, and
21 the rights and obligations of the Parties to the Agreement shall be construed and enforced in accordance
22 with, and governed by, the substantive laws of the State of California without giving effect to that State's
23 choice of law principles.

24 9.12 Headings and Captions: Paragraph titles or captions contained in the Agreement are
25 inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the
26 scope of this Agreement, or any provision thereof.

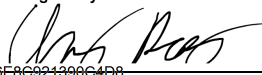
27 9.13 No Retaliation or Discouragement: The Parties agree they will take no action that could
28 be construed as retaliation against any Aggrieved Employees for participating in this settlement.

9.14 Integrated Agreement: This Agreement and the *PAGA Settlement Memorandum of Understanding* sets forth the entire understanding between the Parties with regard to any and all material terms or otherwise and supersedes any and all prior agreements, oral or written, pertaining to the subject matter hereof. Each party acknowledges that there is no representation, inducement, promise or agreement which has been made, orally or otherwise, by the other party, concerning the terms or conditions of this Agreement, which is not expressly embodied in this Agreement. In entering into this Agreement, the Parties represent that the terms of this Agreement are fully understood and voluntarily accepted by the Parties.

IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized attorneys, as of the day and year herein set forth.

For Plaintiff:

Date: 8/19/2021 _____

DocuSigned by:

 06E8C921390C4D8...
 Chaz Perez

For Defendants:

Date: _____

 For Humble Root International, Inc.

Date: _____

 Javier Hernandez

Date: _____

 Chris Thao

Date: _____

 Justin Jacinto

1 9.14 Integrated Agreement: This Agreement and the *PAGA Settlement Memorandum of*
2 *Understanding* sets forth the entire understanding between the Parties with regard to any and all material
3 terms or otherwise and supersedes any and all prior agreements, oral or written, pertaining to the subject
4 matter hereof. Each party acknowledges that there is no representation, inducement, promise or agreement
5 which has been made, orally or otherwise, by the other party, concerning the terms or conditions of this
6 Agreement, which is not expressly embodied in this Agreement. In entering into this Agreement, the
7 Parties represent that the terms of this Agreement are fully understood and voluntarily accepted by the
8 Parties.

9 IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized
10 attorneys, as of the day and year herein set forth.

11 **For Plaintiff:**

12 Date: _____

13 _____
Chaz Perez

14 **For Defendants:**

15 Date: 8/18/21

16 _____
For Humble Root International, Inc.

17 Date: 8/18/21

18 _____
Javier Hernandez

19 Date: 8/18/21

20 _____
Chris Thao

21 Date: 8/18/2021

22 _____
Justin Jacinto

1 APPROVED AS TO FORM

2
3 Dated: 08/17/2021

Shimoda Law Corp.

4 By: 
Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Jessica L. Hart
Attorney for Plaintiff and Aggrieved
Employees

5
6
7 APPROVED AS TO FORM

8
9 Dated: August 23, 2021

Duggan McHugh Law Corporation

10 By: 
Laura C. McHugh
Samantha J. Tanner
Attorney for Defendants