

Edwin Aiwarzian (SBN 232943)
Arby Aiwarzian (SBN 269827)
Joanna Ghosh (SBN 272479)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff Jose Saldana and Proposed Plaintiff Thomas Johns

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE, RIVERSIDE HISTORIC COURTHOUSE

JOSE SALDANA, individually, and on
behalf of other members of the general
public similarly situated;

Plaintiff,

vs.

INTERNATIONAL E-Z UP INC., a
California corporation; and DOES 1
through 100, inclusive,

Defendant.

Case No.: RIC1902873

Honorable Craig G. Riemer
Department 1

CLASS ACTION

**DECLARATION OF EDWIN AIWAZIAN IN
SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

[Notice of Motion and Motion for Preliminary
Approval of Class Action Settlement;
Declarations of Proposed Class Representatives
(Jose Saldana and Thomas Johns); Declaration of
Proposed Settlement Administrator (Michael Bui);
Declaration of Proposed *Cy Pres* Recipient
(Jessica Munoz); and [Proposed] Order filed
concurrently herewith]

Date: March 25, 2021
Time: 8:30 a.m.
Dept: 1

Complaint Filed: May 10, 2019
Trial Date: None Set

DECLARATION OF EDWIN AIWAZIAN

I, Edwin Aiwarzian, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers for Justice, PC, attorneys of record for Plaintiff Jose Saldana and Proposed Plaintiff Thomas Johns (together s”). The facts set forth in this declaration are within my personal knowledge or based on information and belief, and if called as a witness, I could and would competently testify thereto.

EDUCATION

2. In May of 2004, I graduated from *Pepperdine University School of Law* with a Juris Doctor degree. I have extensive formal training in dispute resolution and negotiation from the Straus Institute for Dispute Resolution as part of its Masters in Dispute Resolution degree program. In addition, I have previously served as a *pro bono* mediator for the Los Angeles County Superior Court. In October of 2000, I obtained a Litigation Paralegal Certificate from the *UCLA Extension Program*. During the summer of 2000, I studied Legal Writing at *Harvard University*. In April of 1999, I obtained a Bachelor of Arts degree in Communication with a concentration in Natural Sciences from *Pepperdine University*.

JUDICIAL EXTERNSHIPS

3. From approximately September 2002 to approximately December 2002, I served as a Judicial Extern to the Honorable Kim McLane Wardlaw of the *United States Court of Appeals for the Ninth Circuit*. From approximately June 2002 to approximately August 2002, I served as a Judicial Extern to the Honorable Earl Johnson, Jr. of the *California Court of Appeal for the Second Appellate District*.

LITIGATION AND CLASS ACTION EXPERIENCE

4. In December of 2004, I obtained a license to practice law from the California State Bar. From approximately December 2004 to approximately August 2008, I was employed by the law firm of *Girardi & Keese*.

5. At *Girardi & Keese*, my practice focused on class actions and complex cases involving toxic torts and products liability. In addition, I gained substantial experience on cases

1 involving insurance bad faith, premises liability, and medical negligence. While employed by
2 *Girardi & Keese*, I argued approximately 100 motions, took or defended approximately 150
3 depositions, and prepared dozens of expert witnesses for deposition or trial.

4 6. Since its inception, in or around October of 2008, *Lawyers for Justice, PC* has
5 almost exclusively focused on the prosecution of consumer and employment class actions,
6 involving wage-and-hour claims, race discrimination, unfair business practices or consumer
7 fraud. Currently, we are the attorneys of record in over a dozen employment-related putative
8 class actions in both state and federal courts in the State of California. Our firm has successfully
9 litigated cases involving the executive, administrative, and other overtime exemptions to the
10 State of California and federal overtime compensation requirements. During this relatively short
11 time, in association with other law firms, we have recovered millions of dollars on behalf of
12 thousands of individuals in California.

13 **EXAMPLES OF CLASS ACTION RESULTS**

14 7. What follows are just a few examples of the type of results we have achieved on
15 behalf of our clients:

16 a) Our firm, in association with co-counsel, represented the plaintiffs in a
17 wage-and-hour class and representative action against a major property management company
18 involving allegations of misclassification of various “manager” positions. On September 20,
19 2010, the court granted final approval of the class and representative action settlement. The Los
20 Angeles County Superior Court Case Number is BC400414.

21 b) Our firm, in association with co-counsel, represented the plaintiffs in a
22 wage-and-hour class action against a national retailer involving allegations of misclassification
23 of the “Assistant Store Manager” position. On October 28, 2010, the court granted final
24 approval of the class action settlement. The Los Angeles County Superior Court Case Number
25 is BC413498.

26 c) Our firm, in association with co-counsel, represented the plaintiffs in a
27 wage-and-hour class and representative action against a national property management company
28 involving allegations of misclassification of the “Property Manager” position. On May 23,

2012, the court granted final approval of the class and representative action settlement. The Los Angeles County Superior Court Case Number is BC430918.

d) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action against a national retailer involving allegations of misclassification of the “Store Manager” position. On June 10, 2011, the court granted plaintiffs’ motion for class certification. On August 26, 2013, the court granted final approval of the class action settlement. The Los Angeles County Superior Court Case Number is BC424012.

e) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a bank, involving allegations of misclassification of the “Assistant Branch Manager” position. On August 27, 2013, the court granted final approval of the class and representative action settlement. The Kern County Superior Court Case Number is S-1500-CV-273194-LHB.

f) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a national wholesale distributor of plumbing and builder supplies, involving allegations of misclassification of multiple salaried “manager” positions. On May 22, 2014, the court granted final approval of the class and representative action settlement. The Sacramento County Superior Court Case Number is 34-2012-00136285.

g) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action involving allegations of misclassification of the “Operations Manager” position. On September 16, 2014, the court granted plaintiffs’ motion for class certification. The Los Angeles County Superior Court Case Number is BC478769.

h) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a national retailer of household items, on behalf of hourly-paid or non-exempt employees. On May 27, 2015, the court granted final approval of the class and representative action settlement. The San Francisco County Superior Court Case Number is CGC-13-532344.

///

i) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action involving allegations of misclassification of the salaried residential “Property Manager” position. On September 17, 2015, the court granted plaintiffs’ motion for class certification. The Los Angeles County Superior Court Case Number is BC474784.

j) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a national retailer of upscale hardware and home furnishings, on behalf of non-exempt employees. On April 28, 2016, the court granted final approval of the class and representative action settlement. The Los Angeles County Superior Court Case Number is JCCP4794.

k) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a national retailer of apparel and fashion accessories, on behalf of non-exempt employees. On August 5, 2016, the court granted final approval of the class and representative action settlement. The Los Angeles County Superior Court Case Number is BC488069.

l) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action against a national retailer of apparel, accessories, and home products, involving allegations of misclassification of the “Department Manager” position. On August 12, 2016, the court granted the plaintiffs’ motion for class certification in part and certified a class. The Alameda County Superior Court Case Number is RG13680477.

m) Our firm represented the plaintiffs in a representative action under the Private Attorneys General Act, against a real estate and property management company, on behalf of non-exempt employees. On November 4, 2016, the court granted approval of the settlement. The Orange County Superior Court Case Number is 30-2015-00775439-CU-OE-CXC.

n) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action against a full-service bank, on behalf of non-exempt employees. On November 18, 2016, the court granted final approval of the class action settlement. The San Francisco County Superior Court Case Number is CJC-13-004839.

o) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a consumer packaging company, on behalf of non-exempt employees. On March 10, 2017, the court granted final approval of the class and representative action settlement. The Los Angeles County Superior Court Case Number is BC590429.

p) Our firm, on behalf of the plaintiff and respondent in a PAGA representative action, successfully opposed in the trial court, and briefed and argued an appeal with respect to the employer's motion to compel arbitration, which resulted in a published opinion by the California Court of Appeal in favor of employees. *Roberto Betancourt v. Prudential Overall Supply*, 9 Cal.App.5th 439 (Cal. App. 4th Dist., Mar. 7, 2017), review denied, cert. denied (U.S. Supreme Court Docket No. 17-254).

q) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class and representative action against a manufacturer of food service industry supplies on behalf of non-exempt employees. On April 14, 2017, the court granted final approval of the class and representative action settlement. The Orange County Superior Court Case Number is 30-2015-00810013-CU-OE-CXC.

r) Our firm represented the plaintiffs in a wage-and-hour class and representative action against a food company on behalf of non-exempt employees. On June 30, 2017, the court granted final approval of the class and representative action settlement. The Sacramento County Superior Court Case Number is 34-2015-00175871.

s) Our firm represented the plaintiffs in a wage-and-hour class and representative action against a chocolate company on behalf of non-exempt employees. On July 19, 2017, the court granted final approval of the class and representative action settlement. The Alameda County Superior Court Case Number is RG15764300.

t) Our firm represented the plaintiffs in a wage-and-hour class and representative action against a manufacturer of plastic containers on behalf of non-exempt employees. On June 18, 2017, the court granted final approval of the class and representative action settlement. The Los Angeles County Superior Court Case Number is BC577233.

1 u) Our firm, in association with co-counsel, represented the plaintiffs in a
2 wage-and-hour class and representative action against a bank on behalf of non-exempt
3 employees. On December 11, 2017, the court entered an order granting final approval of the
4 class and representative action settlement. The Los Angeles County Superior Court Case
5 Number is BC569646.

6 v) Our firm, in association with co-counsel, represented the plaintiffs in a
7 wage-and-hour class and representative action against a property management company on
8 behalf of hourly-paid and non-exempt employees. On January 4, 2018, the court entered an order
9 granting final approval of the class and representative action settlement. The Los Angeles
10 County Superior Court Case Number is JCCP4819.

11 w) Our firm, in association with co-counsel, represented the plaintiffs in a
12 wage-and-hour class and representative action against a global provider of flexible office space
13 solutions. On February 15, 2018, the court entered an order granting final approval of the class
14 and representative action settlement. The Los Angeles County Superior Court Case Number is
15 BC498401.

16 x) Our firm represented the plaintiffs in a wage-and-hour class and
17 representative action against a behavioral health service provider on behalf of non-exempt
18 employees. On November 13, 2018, the court granted final approval of the class and
19 representative action settlement. The Alameda County Superior Court Case Number is
20 RG16811450.

21 y) Our firm, in association with co-counsel, represented the plaintiff in a
22 representative action under the Private Attorneys General Act, against a global provider of
23 products and services to the energy industry, on behalf of hourly-paid and non-exempt
24 employees. On November 19, 2018, the Court granted approval of the settlement. The Kern
25 County Superior Court Case Number is S-1500-CV-280215-SDC.

26 z) Our firm represented the plaintiff in a wage-and-hour class action against
27 a parking company on behalf of non-exempt employees. On September 3, 2019, the court
28 granted the plaintiff's motion for class certification and certified a class. The Santa Clara

County Superior Court Case Number is 16CV292208 and the Judicial Council Coordination Proceeding Number is JCCP 4886.

aa) Our firm, in association with other counsel, on behalf of the plaintiff and respondent in a PAGA representative action, successfully opposed in the trial court, and briefed and argued an appeal with respect to the employer's motion to compel arbitration, resulting in a notable decision from the California Supreme Court clarifying the law and finding, in part, that employer arbitration agreements are unenforceable where they block a PAGA claim from proceeding, *ZB, N.A. v. Superior Court*, 8 Cal.5th175 (2019).

bb) Our firm represents the plaintiffs in a wage-and-hour class and representative action against a bank on behalf of non-exempt employees. On September 27, 2019, the court granted the plaintiffs' motion for class certification in part and certified a class. The Alameda County Superior Court Case Number is JCCP4921.

cc) Our firm represented the plaintiffs in a wage-and-hour class and representative action against a national retailer of apparel and fashion accessories, on behalf of non-exempt employees. On October 9, 2019, the court granted the plaintiffs' motion for class certification in part and certified a class. The Sacramento County Superior Court Case Number is 34-2015-00175330-CU-OE-GDS.

dd) Our firm represented the plaintiff in a wage-and-hour class and PAGA representative action against a medical equipment supplier on behalf of non-exempt employees. On February 13, 2020, the court granted the plaintiff's motion for class certification and certified a class. The San Bernardino County Superior Court Case Number is CIVDS1505744.

ee) Our firm, in association with other counsel, represented the plaintiff in a wage-and-hour class and PAGA representative action against a large national drug testing laboratory on behalf of non-exempt employees. On February 21, 2020, the court granted the plaintiff's motion for class certification and certified a class. The San Diego County Superior Court Case Number is 37-2018-00019611-CU-OE-CTL.

///

///

ff) Our firm represented the plaintiffs in a wage-and-hour class and representative action against a national retailer of sportswear, footwear, and camping equipment on behalf of non-exempt employees. On March 16, 2020, the court granted in part the plaintiff's motion for class certification and certified a class. The Riverside County Superior Court Case Number is RICJCCP4930.

PRELIMINARY APPROVAL

8. Marked and attached hereto as "**EXHIBIT 1**" is the Joint Stipulation of Class and PAGA Settlement and Release ("Settlement," "Agreement," or "Settlement Agreement") entered into by and between Plaintiff Jose Saldana and Proposed Plaintiff Thomas Johns, individually and on behalf of all others similarly situated and other aggrieved employees, on the one hand, and Defendant International E-Z up Inc. ("Defendant"), on the other hand (collectively, the "Parties"). The Parties and their counsel have approved the proposed Notice of Class Action Settlement ("Class Notice"), Exclusion Form, and Objection Form, attached as "**EXHIBIT 2**," "**EXHIBIT 3**," and "**EXHIBIT 4**," respectively, to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement, and respectfully request that the Court approve them as well. The Parties have also drafted and agreed to the form and content of the proposed First Amended Class Action Complaint for Damages and Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. ("First Amended Complaint"), which is attached as "Exhibit 1" to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement, filed concurrently herewith. As part of the Settlement, the Parties agreed to amend the complaint to add Plaintiff Johns and a cause of action under PAGA and effectuate the terms of the Settlement.

9. Based on information provided by Defendant, as of May 2020, the Class is estimated to consist of approximately two hundred eighty (280) individuals.

10. The effectiveness of Lawyers for Justice PC ("Class Counsel") in prosecuting this case has translated into tangible monetary benefits for the Class Members in the following respects: (1) Class Members recover over a reasonably short period of time as opposed to waiting additional years for the same, or possibly worse, result; (2) a guaranteed result that

1 compares favorably with other similar class action settlements of this type given the strengths
2 and weaknesses of the case; and (3) significant savings in Class Counsel's litigation fees and/or
3 costs that would have only increased significantly had the case progressed through certification,
4 trial, and/or appeals.

5 11. Class Counsel has actively litigated the Action since it commenced on May 10,
6 2019. The Parties have engaged in extensive settlement negotiations and participated in two (2)
7 mediation sessions with the Jeffrey Krivis, Esq., a well-respected mediator experienced in
8 mediating complex labor and employment matters. After the Parties exchanged class
9 information and conducted extensive investigation and informal discovery, the Parties engaged
10 in an extensive discussion regarding their evaluations of the case and various aspects of the case,
11 including but not limited to, the risks and delays of further litigation, the risks to the Parties of
12 proceeding with class certification and representative adjudication, the law relating to meal and
13 rest periods, wage-and-hour enforcement, and PAGA representative claims, as well as the
14 evidence produced and analyzed, and the possibility of appeals, among other things. During all
15 settlement discussions, the Parties conducted their negotiations at arm's length in an adversarial
16 position. Arriving at a settlement that was acceptable to both Parties was not easy. Defendant
17 and its counsel felt strongly about their ability to prevail on the merits, at certification, and at
18 trial, and Plaintiffs and Class Counsel believed that they would be able to obtain class
19 certification and prevail at trial. After conducting extensive investigations, informal discovery
20 and exchange of information, and settlement negotiations, the Parties have agreed that this case
21 is well-suited for settlement given the legal issues relating to Plaintiffs' principal claims, as well
22 as the costs and risks to both sides that would attend further litigation. The Settlement is a fair,
23 reasonable, and adequate resolution of the Settlement Class Members' Released Class Claims
24 and Aggrieved Employees' Released PAGA Claims against the Released Parties.

25 12. Prior to reaching the Settlement, the Parties investigated the veracity, strength and
26 scope of the claims, and Class Counsel was preparing the case for class certification and trial.
27 Plaintiffs conducted significant investigation and extensive informal discovery regarding the
28 facts of the case, including and not limited to, the exchange, review, and analysis of thousands

1 of pages of documents and data produced by Defendant and obtained from other sources. The
2 large volume of data and documents that Class Counsel reviewed and analyzed included and
3 was not limited to: Plaintiffs' employment records, sampling of time and payroll records,
4 Employee Handbook, weekly Earnings Schedule, forms, internal memoranda (including,
5 Building Hours and Card Access Areas and Employee Parking), Evaluation Guideline, Meal
6 Break Waiver, Time Clock Missed Punch Request Form, acknowledgments (including
7 Employee Payroll Swipe Card), Property Inspection Policy, Prohibited Time Clock Actions, and
8 Defendant's operations and employment practices, procedures, and policies, among other
9 information and documents. Class Counsel interviewed Plaintiffs to gather facts and to identify
10 potential witnesses. Counsel for the Parties also met and conferred on numerous occasions, e.g.,
11 to discuss issues relating to the pleadings and the production of documents and data. Class
12 Counsel also drafted a mediation brief, and prepared for and attended two (2) sessions of
13 mediation.

14 13. Counsel for the Parties have also invested time researching and investigating the
15 applicable law, which is constantly evolving as it relates to class certification, representative
16 PAGA claims, meal and rest periods, wage-and-hour enforcement, Plaintiffs' claims and
17 damages, and Defendant's defenses thereto, as well as facts discovered. Based on our analysis,
18 I submit that the result achieved in this litigation is fair, adequate, and reasonable.

19 14. The Settlement provides for a Gross Settlement Fund of \$950,000. The Net
20 Settlement Amount is the Gross Settlement Fund less the following amounts subject to approval
21 by the Court: Attorneys' Fees and Litigation Costs to Class Counsel, Enhancement Awards to
22 Plaintiffs, Settlement Administration Costs to the Settlement Administrator, and PAGA
23 Settlement Amount. Assuming that the amounts allocated under the Settlement toward these
24 payments are awarded by the Court, the Net Settlement Amount is estimated to be no less than
25 Four Hundred Eighty Thousand Dollars (\$480,000). Under the Settlement Agreement, the final
26 available Net Settlement Amount will be distributed to Settlement Class Members and 25% of
27 the PAGA Settlement Amount will be distributed to Aggrieved Employees, and no portion will
28 revert to Defendant.

1 15. After obtaining competing bids from multiple potential settlement administrators
2 ranging from \$7,500 to \$8,500, the Parties agreed to retain Simpluris, Inc. (“Simpluris” or
3 “Settlement Administrator”) to handle the notice and settlement administration. The Parties
4 preferred to retain Simpluris over its competitors because counsel on both sides have had
5 positive experiences working with Simpluris in the past. The Parties respectfully request that
6 the Court appoint Simpluris to handle these procedures and serve as the Settlement
7 Administrator. Defendant will provide Simpluris with the Class List, and Simpluris will
8 calculate each Class Member’s estimated Individual Settlement Payment and Individual
9 Settlement Payment (if applicable). Simpluris will also translate the Class Notice, Exclusion
10 Form, and Objection Form (together, “Notice Packet”) into Spanish and mail both an English
11 and a Spanish version of the Notice Packet to Class Members, receive and process Opt Out
12 Requests, Objections, and Workweek Challenges; provide necessary reports and declarations;
13 calculate, subtract, and transmit necessary taxes and withholdings; prepare and submit
14 informational and other tax filings and documents; issue and transmit all payments provided by
15 the Settlement, including and not limited to, mailing payment checks to the Settlement Class
16 Members; and perform any other usual and customary duties for administering a class and
17 representative action settlement. Settlement Administration Costs are not to exceed Ten
18 Thousand Dollars (\$10,000) and will be paid out of the Gross Settlement Fund, subject to
19 approval of the Court.

20 16. Based on investigation and information discovered, Class Counsel believes that
21 there is sufficient evidence to support the allegations made in the lawsuit, including the
22 allegations that Defendant, with respect to Plaintiffs and the Class Members, *inter alia*, failed
23 to pay overtime and minimum wages, failed to provide compliant meal and rest periods and pay
24 associated premium pay, failed to timely pay wages during employment and upon termination
25 of employment and associated waiting-time penalties, failed to provide compliant wage
26 statements, failed to keep complete and accurate payroll records, and failed to reimburse
27 necessary business expenses, and thereby engaged in unfair business practices in violation of
28 California Business and Professions Code section 17200, *et seq.* and conduct giving rise to

1 penalties recoverable under the Private Attorneys General Act of 2004 (California Labor Code
2 sections 2698, *et seq.*). Plaintiffs allege that Class Members were subject to the same or similar
3 operations and employment policies, practices, and procedures. Additionally, Plaintiffs allege
4 that Defendant's recordkeeping practices with respect to Plaintiffs and the Class Members were
5 substantially the same during the time period at issue. As a result, Plaintiffs claim that the Class
6 Members were uniformly not paid all of the compensation that was owed to them by Defendant
7 during the Class Period. Thus, it is clear that the outcome of this litigation would be determined
8 by Defendant's uniform operations and employment practices, policies, and procedures that
9 applied across its hourly-paid or non-exempt employees in California during the Class Period.

10 17. Class Counsel is aware of the defenses and positions of Defendant but believes
11 that Plaintiffs could potentially obtain class certification despite many obstacles. Plaintiffs have
12 also taken into account the uncertainty and risk of the outcome of further litigation, and the
13 difficulties and delays inherent in such litigation, including those involved in class certification
14 and representative adjudication. Plaintiffs further recognize the burdens of proof necessary to
15 establish liability for the claims asserted in the lawsuit, Defendant's defenses, and the difficulties
16 in establishing entitlement to monetary recovery. Plaintiffs have also considered the Parties'
17 settlement discussions as well as the evaluations of the mediator, who is experienced and well-
18 regarded in complex labor and employment matters.

19 18. Defendant, on the other hand, denied and continues to deny any liability and
20 wrongdoing of any kind associated with the claims alleged in the action, and further denies that
21 the action is appropriate for class treatment or representative adjudication for any purpose other
22 than this Settlement. Defendant believes that it would ultimately succeed in the action. Both
23 sides have also had the opportunity to interview witnesses and review documents and
24 information relating to Plaintiffs' and the Class Members' employment with Defendant, and
25 Defendant's operations and employment policies, practices, and procedures. The Parties also
26 reviewed and analyzed a large volume of documents and data, including but not limited to a
27 detailed sampling of Class Members' time and pay information, to determine the potential value
28 and strength of the claims. The available information enabled Class Counsel to estimate the

1 potential claims of the Class and prepare damages/valuation models. Accordingly, the Parties
2 have conducted adequate investigation and analysis to be sufficiently informed of the nature and
3 extent of the Class Members' claims, and to enable both sides to fully evaluate the Settlement
4 for its fairness, adequacy, and reasonableness. The Parties have agreed that the case is well-
5 suited for settlement given the legal issues relating to Plaintiffs' principal claims, as well as the
6 costs and risks to both sides that would attend further litigation. The Settlement takes into
7 account the strengths and weaknesses of each side's position and the uncertainty of how the case
8 might have concluded at certification, trial, and/or appeals.

9 19. The Settlement Agreement provides for Class Counsel to apply for attorneys' fees
10 in an amount of up to thirty-five percent (35%) of the Gross Settlement Fund (i.e., \$332,500)
11 and reimbursement for actual costs and expenses incurred, which will be paid out of the Gross
12 Settlement Fund, subject to approval by the Court. It should be noted that Class Counsel has
13 borne all of the risks and costs of litigation and will not receive any compensation until recovery
14 is obtained.

15 20. The Settlement Agreement provides for an Enhancement Awards of up to \$7,500
16 to Plaintiff Saldana and \$5,000 to Proposed Plaintiff Johns to be paid out of the Gross Settlement
17 Fund, subject to approval by the Court. Plaintiffs spent considerable time and effort to produce
18 relevant documents and past employment records and to provide the facts and evidence
19 necessary to attempt to prove the allegations. Plaintiffs were available whenever Class Counsel
20 needed him and actively tried to obtain information that would benefit the Class. Accordingly,
21 it is appropriate and just for Plaintiffs to each receive a reasonable Enhancement Award in
22 addition to their Individual Settlement Payments and Individual PAGA Payments.

23 **OTHER PENDING ACTIONS**

24 21. I made reasonable inquiry of other members at Lawyers for Justice, PC, and I am
25 not aware of any other pending actions against Defendant International E-Z Up, Inc. in any other
26 Court that the Settlement may impact.

27 **FEE SPLIT ARRANGEMENT**

28 22. Lawyers for Justice, PC has not entered into a fee splitting agreement or

arrangement with any other counsel.

RELATION TO PROPOSED *CY PRES* RECIPIENT

23. I made reasonable inquiry of Plaintiffs and other members at Lawyers *for* Justice, PC, and to the best of my knowledge, neither I, Plaintiffs, nor other members at Lawyers *for* Justice, PC have any relationship with the proposed *cy pres* recipient Riverside CASA.

ESTIMATED SETTLEMENT PAYMENTS TO CLASS MEMBERS

24. Based on data provided by Defendant to Class Counsel in February 2021, the maximum Individual Settlement Payment is estimated to be \$4,652.75, the minimum Individual Settlement Payment is estimated to be \$17.83, and the average Individual Settlement Payment is estimated to be \$1,711.36. Based on data provided by Defendant to Class Counsel in February 2021, the maximum Individual PAGA Payment is estimated to be \$183.38, the minimum Individual PAGA Payment is estimated to be \$3.46, and the average Individual PAGA Payment is estimated to be \$100.34.

ESTIMATE OF THE VALUE OF THE CLAIMS

25. Plaintiffs' action alleges that Defendant has violated the California Labor Code by engaging in a uniform policy and systematic scheme of wage abuse against Plaintiffs and the putative class members, including, *inter alia*, failing to properly compensate overtime and minimum wages, failing to provide compliant meal and rest periods and associated premium pay, failing to timely pay wages and associated waiting-time penalties, failing to provide compliant wage statements, and failing to reimburse necessary business expenses, and thereby engaged in unfair business practices under the California Business and Professions Code and owes civil penalties recoverable under the Private Attorneys General Act, California Labor Code section 2698, *et seq.* ("PAGA").

26. Having evaluated hundreds of wage-and-hour class action cases, I am experienced and qualified to evaluate the claims of the putative class members and Defendant's defenses.

27. Based on data provided by Defendant prior the sessions of mediation, the total number of Class Members during the period from May 10, 2015 to November 20, 2019 ("relevant time period") was estimated to be two hundred forty-seven (247) individuals, their

1 total workweeks were estimated to be 24,053, and the average hourly rate of pay was estimated
2 to be \$15.59.

3 28. Both sides had the opportunity to interview witnesses, conducted informal
4 discovery and investigations into the facts of the case, and informally exchanged information
5 and class-wide data.

6 **A. Failure to Pay Overtime and Minimum Wages**

7 29. Plaintiffs alleged that Defendant failed to pay overtime and minimum wages.
8 Plaintiffs contended that Defendant's uniform policies, practices, and procedures required
9 putative class members to perform work (such as unloading trucks, offloading products, pulling
10 products for orders, processing purchase order, and responding to work-related inquiries) during
11 meal periods and before clocking-in and after clocking-out. For example, Plaintiffs contended
12 that Plaintiffs and other putative class members were required to record their scheduled hours
13 instead actual time worked, that Defendant assigned workloads that could not be completed
14 within the work hours scheduled, and that Defendant discouraged them from working overtime
15 hours with policies requiring that all overtime be pre-approved by supervisors. Plaintiffs also
16 contended that Defendant incorrectly calculated the regular rate of pay for purposes of
17 calculating overtime compensation, and that Defendant failed to properly compensate Plaintiffs
18 and putative class members at their applicable minimum, regular, or overtime rates for all of the
19 hours that they worked.

20 30. California Labor Code section 510 provides that when an employee works more
21 than eight (8) hours in any workday, more than forty (40) hours in any workweek and/or more
22 than six (6) days in a workweek, the employer must pay the employee at least one and one-half
23 times the employee's regular rate of pay for all overtime hours worked. The employer must pay
24 the employee no less than twice his or her regular rate of pay for hours worked in excess of
25 twelve (12) hours in one day or in excess of eight (8) hours on the seventh consecutive day of
26 work. California Labor Code section 1198 and the applicable Industrial Welfare Commission
27 ("IWC") Wage Order(s) provide that it is unlawful to employ persons without compensating
28

1 them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay,
2 depending on the number of hours worked by the person on a daily or weekly basis.

3 31. California Labor Code section 1197 provides that it is unlawful to pay employees
4 at a rate less than the minimum wage. California Labor Code sections 1194, 1194.2, 1197, and
5 1197.1 provide that an employee may seek to recover unlawfully unpaid wages by court action,
6 as well as liquidated damages in an amount equal to the wages unlawfully not paid and interest
7 thereon. California Labor Code section 1197.1 provides for civil penalties, which, arguably,
8 may only be recovered by the Labor Commissioner during a one-year statute of limitations
9 period.

10 32. Defendant contended, *inter alia*, that its overtime policies and practices comply
11 with the law, and that it paid putative class members over the California minimum wage for all
12 hours worked. Defendant contended that it correctly calculated putative class members' regular
13 rate of pay for purposes of paying overtime and that any bonuses paid to putative class members
14 was discretionary. Defendant also produced wage records reflecting overtime compensation
15 paid to many of the putative class members (including, and not limited to, Plaintiffs). Defendant
16 further contended that all employees were required to record all time worked and were given
17 the opportunity to make any necessary revisions or changes to their time worked, and that
18 Defendant was not aware that any work had been performed off-the-clock. Defendant also
19 argued that individual liability issues predominate, including: (a) whether each employee
20 worked off-the-clock; (b) whether Defendant knew or should have known about each
21 employee's off-the-clock work; (c) whether each employee worked overtime; and (d) whether
22 Defendant knew or should have known that each putative class member performed overtime
23 work. Defendant also contended that the putative class members held different job titles and
24 had different job duties and that these circumstances would raise highly individualized questions
25 of fact and would pose challenges to certification and the merits of the claims for overtime and
26 minimum wages.

27 33. Class Counsel considered information obtained through investigations and from
28 Plaintiffs and other putative class members, as well as class data provided by Defendant, and

1 created damages/valuation models prior to the mediations. Based thereon, assuming that it could
2 be proven that Defendant failed to pay an hour of overtime wages every workweek during the
3 relevant time period, Plaintiffs' estimate of the potential value of this claim if they were entirely
4 successful at trial was \$608,460.56 (24,053 workweeks x 1 hour of overtime wages x overtime
5 hourly rate of \$22.94, which is based on the average hourly rate of \$15.29). Assuming that it
6 could be proven that Defendant failed to pay one (1) hour of minimum wages every workweek
7 during the relevant time period, Plaintiffs' estimate of the potential value of this claim if they
8 were entirely successful at trial was \$405,551.96 (24,053 workweeks x 1 hour of unpaid
9 minimum wages x average hourly rate of \$15.29).

10 34. However, this assumes an exposure based on a class having been certified and
11 Plaintiffs having proven all elements of the overtime and minimum wage claims, despite risks
12 associated with obtaining and maintaining certification, risks to establishing liability, and
13 significant additional costs that would have to be incurred in order to certify a class and establish
14 liability. Plaintiffs also faced the risk of the Court finding that individualized issues
15 predominate, such that class treatment is not suitable. While Class Counsel disagreed with
16 Defendant's arguments and factual contentions, Class Counsel recognized the circumstances
17 and realities of the case, applicable case law and regulations, the costs and expenses of further
18 litigation and certification, and risks to recovery, and applied appropriate discounts for them.
19 With respect to the overtime claim, at this juncture, a discount of 30% was applied to account
20 for the risks associated with obtaining and maintaining certification (bringing the value of the
21 claim closer to \$425,922.39), a discount of 40% was applied to account for the risks associated
22 with succeeding on the merits and establishing liability (bringing the value of the claim closer
23 to \$255,553.43), and a discount of 40% was applied to account for the risks associated with
24 proving the extent of damages and obtaining an award thereof (bringing the value of the claim
25 closer to \$153,332.06). Also, with respect to the minimum wage claim, at this juncture, a
26 discount of 40% was applied to account for the risks associated with obtaining and maintaining
27 certification (bringing the value of the claim closer to \$243,331.18), a discount of 50% was
28 applied to account for the risks associated with succeeding on the merits and establishing

1 liability (bringing the value of the claim closer to \$121,665.59), and a discount of 50% was
2 applied to account for the risks associated with proving the extent of damages and obtaining an
3 award thereof (bringing the value of the claim closer to \$60,832.80).

4 **B. Failure to Provide Compliant Meal and Rest Periods and Associated Premiums**

5 35. Plaintiffs' theory of liability was also based on Defendant's failure to provide
6 timely, full, and/or uninterrupted meal and rest periods. Plaintiffs contended, *inter alia*, that
7 Defendant's policies, practices, and procedures required employees to perform job duties (e.g.,
8 answering work inquiries from supervisors) during their meal and rest periods in part due to
9 assigning heavy workloads and understaffing and prevented them from regularly receiving
10 compliant meal and rest periods. Plaintiffs further contended that Defendant failed to pay a
11 meal and rest period premiums for missed, late, short, or interrupted meal periods in every
12 instance that one was due.

13 36. Under California law, an employer must provide an employee with uninterrupted
14 meal periods of not less than thirty (30) minutes before the employee works more than five (5)
15 hours, except that if the total work period per day of the employee is no more than six (6) hours,
16 the meal period may be waived by mutual consent of both the employer and employee. Cal.
17 Lab. Code § 512(a). A second meal period of not less than thirty (30) minutes is required if an
18 employee works more than ten (10) hours per day, except that if the total hours worked is no
19 more than twelve (12) hours, the second meal period may be waived by mutual consent of the
20 employer and employee only if the first meal period was not waived. *Id.* An "on-duty" meal
21 period may be agreed to only if "the nature of the work prevents an employee from being
22 relieved of all duty and when by written agreement between the parties an on-the-job paid meal
23 period is agreed to." IWC Wage Orders 1 through 15, § 11; IWC Wage Order 16, § 10. An
24 employer must pay each employee to whom it fails to "provide" a meal period one hour of wages
25 at his or her regular rate of pay "for each work day that the meal or rest period is not provided."
26 Cal. Lab. Code § 226.7(b).

27 37. California law requires an employer to provide rest periods to all employees at the
28 rate of ten (10) minutes every four hours of work or major fraction thereof. Cal. Lab. Code §

226.7. When an employer fails to provide a compliant rest period, the employer is required to either (a) provide another rest period or (b) pay one additional hour of pay at the regular rate of pay “for each work day that the meal or rest period is not provided.” *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 271-272; Cal. Lab. Code § 226.7(b). However, employees are exempt from the rest breaks law, if their duties and responsibilities qualify for one or more of the exemptions under California or federal law. See Cal. Lab. Code § 226.7(e); see e.g., 49 CFR § 395.

38. Defendant contended that it had practices, policies, and procedures to provide meal and rest periods every workday to its employees that fully complied with California law. To the extent that putative class members failed to take their meal and rest periods or took a short or break, Defendant contended that they did so voluntarily and that all applicable meal and rest periods were still provided to them. Thus, Defendant argued that it did not act unlawfully to deprive putative class members of meal and rest periods. Defendant also contended that there were multiple individual issues that would pose challenges to certification, including and not limited to, (a) whether any meal and rest periods were non-compliant, and (b) why they were non-compliant. Defendant also contended that the putative class members held different job titles and had different job duties, and that as a result, there was variation to the circumstances that could allegedly cause the employees to be deprived of the opportunity to take legally-compliant, duty-free meal and rest periods, and this variation in circumstances raised highly individualized questions of fact.

39. Class Counsel considered information obtained through investigations and from Plaintiffs and other putative class members, as well as class data provided by Defendant, and created damages/valuation models prior to the mediations. Based thereon, assuming that it could be proven that five (5) meal and/or rest period premiums are due for every workweek during the relevant time period, Plaintiffs’ estimate of the potential value of this claim assuming it was entirely successful at trial was \$2,027,759.80 (24,053 workweeks x 5 meal period premiums x average hourly rate of \$15.29).

1 40. Class Counsel also considered the risk of further litigating the case, including the
2 significant additional costs that will be incurred by both sides if the case does not settle, as
3 litigating a class action through class certification, trial, and/or appeals is very expensive.
4 Moreover, litigating meal and rest period claims is inherently difficult as an employer's records,
5 as is the case here, do not usually indicate when a meal period is interrupted or when a rest
6 period is missed, late, short and/or interrupted. While Class Counsel disagreed with Defendant's
7 arguments and factual contentions, Class Counsel recognized the circumstances and realities of
8 the case, applicable case law and regulations, costs and expenses of further litigation and
9 certification, and risks to recovery, and applied appropriate discounts for them. At this juncture,
10 a discount of 30% was applied to account for the risks associated with obtaining and maintaining
11 certification (bringing the value of the claim closer to \$1,419,431.86), a discount of 40% was
12 applied to account for the risks associated with succeeding on the merits and establishing
13 liability (bringing the value of the claim closer to \$851,659.12), and a discount of 40% was
14 applied to account for the risks associated with proving the extent of damages and obtaining an
15 award thereof (bringing the value of the claim closer to \$510,995.47).

16 **C. Waiting-Time Penalties for Failure to Timely Provide Wages During Employment**
17 **and Upon Termination**

18 41. California Labor Code section 204 provides that wages earned by any person in
19 any employment between the 1st and 15th days, inclusive, of any calendar month, other than
20 those wages due upon termination of an employee, are due and payable between the 16th and
21 the 26th day of the month during which the labor was performed. Further, all wages earned by
22 any person in any employment between the 16th and the last day, inclusive, of any calendar
23 month, are due and payable between the 1st and the 10th day of the following month.

24 42. Plaintiffs alleged that Defendant intentionally and willfully failed to pay Plaintiffs
25 and putative class members all wages due to them while they were employed by Defendant,
26 within the time period permissible under California law. These wages included, but were not
27 limited to, minimum, regular, and overtime wages and meal and rest break premiums. However,
28 arguably, this provision of the California Labor Code only states requirements and does not

1 provide for private relief for failure to comply with the requirements stated therein. Instead,
2 redress may be pursued for the failure to pay wages and meal and rest period premiums (which
3 are discussed herein).

4 43. California Labor Code sections 201 and 202 provide that if an employer
5 discharges an employee, the wages earned and unpaid at the time of discharge are due and
6 payable immediately. If an employee quits his or her employment, his or her wages shall
7 become due and payable not later than seventy-two (72) hours of quitting, unless the employee
8 has given seventy-two (72) hours of notice of his or her intention to quit, in which cases the
9 employee is entitled to his or her wages at the time of quitting.

10 44. California Labor Code section 203 provides that if an employer fails to pay an
11 employee all wages due at termination or within seventy-two (72) hours of resignation, in
12 accordance with sections 201 and 202, then that employee's wages shall continue as a penalty
13 until paid for a period of up to thirty (30) days from the date they were due. California Labor
14 Code section 203 further provides that the statute of limitations to recover the penalty is the
15 same as the statute of limitations for recovery of the unpaid wages from which the penalties
16 arise, i.e. three years.

17 45. Plaintiffs alleged that Defendant intentionally and willfully failed to pay Plaintiffs
18 and the other putative class members all wages due to them upon termination, within the time
19 period permissible under California law. For example, Plaintiffs alleged that putative class
20 members are entitled to unpaid wages arising from, *inter alia*, off-the-clock work, as well as
21 meal and rest period premiums, thereby triggering waiting-time penalties under California Labor
22 Code section 203.

23 46. Based on information and data provided by Defendant, it was estimated that
24 approximately 122 putative class members had been terminated during the three-year statute of
25 limitations (i.e., from May 10, 2016). Assuming that these individuals were not timely paid all
26 wages due to them upon termination, Plaintiffs' estimate of the potential value of waiting-time
27 penalties claim if it was entirely successful at trial was \$447,691.20 collectively (122 individuals
28 x [30 days x hourly rate of \$15.29 x 8 hours]), or approximately \$3,669.60 per individual.

1 However, this presumes that Plaintiffs would prevail on the underlying California Labor Code
2 claims, which is necessary to show that Defendant failed to timely pay wages that were due to
3 the putative class members upon termination.

4 47. Defendant was adamant that no waiting-time penalties should be awarded.
5 Defendant pointed out that waiting-time penalties are derivative of each and every other
6 underlying alleged California Labor Code violations and contended that it paid the terminated
7 employees all wages due and owing. Moreover, Defendant emphasized that, under California
8 Labor Code section 203, employers are only obligated to pay waiting-time penalties if they
9 “willfully” fail to pay wages due and owing at the time of termination or resignation. As Title
10 8, California Code of Regulations, section 13520 states,

11 A willful failure to pay wages within the meaning of Labor Code Section 203 occurs
12 when an employer intentionally fails to pay wages to an employee when those wages
13 are due. However, a good faith dispute that any wages are due will preclude
14 imposition of waiting time penalties under Section 203.

15 A “good faith dispute” that any wages are due occurs when an employer presents a
16 defense, based in law or fact, which, if successful, would preclude any recovery on
17 the part of the employee. The fact that a defense is ultimately unsuccessful will not
18 preclude a finding that a good faith dispute did exist. Defenses presented which,
19 under all the circumstances, are unsupported by any evidence, are unreasonable, or
20 are presented in bad faith, will preclude a finding of a “good faith dispute.”

21 48. Accordingly, to assess the likely recovery of waiting-time penalties, Class
22 Counsel also took into consideration the chances of prevailing on each of the underlying causes
23 of action, as well as the additional hurdles of prevailing on the claim for waiting-time penalties,
24 including the inherent difficulty in proving the “willful” prong of section 203, applicable case
25 law, costs and expenses associated with further litigation and certification, the circumstances
26 and realities of the case, and risks to recovery, and applied appropriate discounts for them. At
27 this juncture, a discount of 50% was applied to account for the risks associated with obtaining
28 and maintaining certification (bringing the value of the claim closer to \$223,845.60), a discount
of 50% was applied to account for the risks associated with succeeding on the merits and
establishing liability (bringing the value of the claim closer to \$111,922.80), and a discount of
50% was applied to account for the risks associated with proving the extent of damages and
obtaining an award thereof (bringing the value of the claim closer to \$55,961.40).

D. Wage Statement Violations

49. Plaintiffs also alleged that Defendant violated California Labor Code section 226(a) which states that an employer must provide an accurate and itemized wage statement twice a month or each time wages are paid, whichever is the more frequent. Failure to do so entitles employees to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). See Cal. Lab. Code § 226(e). Arguably, actual damages may be sought, under a three-year statute of limitations, or, statutory penalties may be sought, under a one-year statute of limitations.

50. Based on data provided by Defendant, it was estimated that approximately 202 putative class members worked during the one-year statutory limitations period (i.e., from May 10, 2018), and that these putative class members worked a total of 5,413 pay periods. Assuming that an injurious wage statement could be proven for each of these putative class members for each of these pay periods, Plaintiffs' estimate of the potential value of this claim if it was entirely successful at trial was \$531,200.00 ([202 initial violations x \$50 initial violation penalty] x [(5,413 - 202) subsequent violations x \$100 subsequent violation penalty]).

51. Defendant contended that Plaintiffs and putative class members suffered no actual injury from the alleged wage statement violations. Defendant also contended that this alleged violation is entirely derivative of the foregoing allegations. In other words, Plaintiffs would have to prove, for example, that off-the-clock work occurred, that overtime was worked, that all hours of work had not been properly recorded and compensated, and/or that non-compliant meal and rest periods occurred and that Defendant did not pay premiums, etc., to demonstrate that the wage statements were inaccurate. Defendant further contended, *inter alia*, that if off-the-clock and/or overtime work occurred and was not reflected in the wage statements, it was because the work was hidden from Defendant. Defendant also contended that no actual injury could be shown. When assessing the value of this claim, Class Counsel considered these factors, the derivative nature of this alleged violation, the chances of prevailing on each of the underlying

causes of action, applicable case law and regulations, costs and expenses associated with further litigation and certification, realities of the case, and risks to recovery, and applied appropriate discounts for them. At this juncture, a discount of 50% was applied to account for the risks associated with obtaining and maintaining certification (bringing the value of the claim closer to \$265,600.00), a discount of 50% was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of the claim closer to \$132,800.00), and a discount of 50% was applied to account for the risks associated with proving the extent of damages and obtaining an award thereof (bringing the value of the claim closer to \$66,400.00).

E. Failure to Maintain Requisite Payroll Records

52. Plaintiffs alleged that Defendant had intentionally and willfully failed to keep accurate and complete payroll records showing the hours worked daily by, and the wages paid to, Plaintiffs and the putative class members. Plaintiffs also alleged that Defendant's intentional and willful failure to keep accurate payroll records violated the statutorily-protected right to accurate and complete payrolls records, and that Plaintiffs and putative class members have suffered injury and damage as a result.

53. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records must be kept in accordance with rules established for this purpose by the Labor Commissioner, but in any case, shall be kept on file for not less than three years. Under California Labor Code section 1174.5, a willful violation of the employer's recordkeeping obligations set forth in California Labor Code section 1174(d) is subject to a civil penalty of \$500. Arguably, this civil penalty would only be recoverable by the Labor Commissioner, however, Plaintiffs assert a cause of action under PAGA. Therefore, the value of this claim is considered as a part of the valuation of the PAGA claim contained *infra*.

54. Defendant contended that Plaintiffs and putative class members suffered no actual injury or damage from the alleged recordkeeping violations. Moreover, Defendant challenged certification of the recordkeeping issue on the basis that individual liability issues predominated, including (a) whether each putative class member's payroll records were not maintained properly, and (b) whether Defendant's alleged failure to keep requisite payroll records was "willful." Like the wage statement violations, this cause of action is entirely derivative of the causes of action for failure to pay overtime and minimum wages and failure to provide compliant meal or rest periods.

55. As such, to assess the value of this claim, Class Counsel also took the foregoing factors into account, as well as Defendant's defenses and contentions, the derivative nature of this cause of action, the chances of prevailing on the other causes of action, the inherent difficulty in proving the "willful" prong of California Labor Code section 1174.5, applicable case law and regulations, costs and expenses of further litigation and certification, the circumstances and realities of the case, and risks to recovery, and applied appropriate discounts for settlement purposes.

F. Unreimbursed Business Expenses

56. Plaintiffs contended that Defendant failed to reimburse Plaintiffs and other putative class members for necessary business expenses, including but not limited to, costs associated with complying with Defendant's dress code and using personal cell phones for work duties.

57. California Labor Code section 2802 requires an employer to indemnify its employees for all necessary expenditures made by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

58. Defendant contended that it has a policy and practice of reimbursing employees and that, with respect to the alleged expenses for which Plaintiffs and other putative class members never requested reimbursement from Defendant, Defendant did not know and had no reason to know that the alleged business-related expenses were incurred. Defendant further contended that the reason for why a putative class member undertook certain expenses, while

1 not others, and failed to receive reimbursement for certain expenses while not others, would
2 raise individual issues that could not be certified.

3 59. Defendant also contended that the California Labor Code only requires
4 reimbursement of “necessary” expenses—as opposed to any expense that is incurred in the
5 course of performing work—and argued that distinguishing a necessary expense from an
6 unnecessary one would require individualized inquiry. See, Cal. Lab. Code § 2802; *Gattuso v.*
7 *Harte-Hanks Shoppers, Inc.* (2007) 42 Cal.4th 554. Furthermore, whether or not an expense
8 was necessary, would depend, in part, on the reasonableness of the employee’s choice, and
9 whether or not an expense was incurred, would have to be established by way of extensive
10 individual factual inquiry and/or statistical evidence. *Cochran v. Schwan’s Home Services, Inc.*
11 (2014) 228 Cal.App.4th 1137.

12 60. If Plaintiffs proved that Defendant willfully failed to reimburse necessary
13 business-related expenses to putative class members in the amount of five dollars (\$5) each per
14 workweek during the relevant time period, Plaintiffs’ estimate of the potential value of this claim
15 if it was entirely successful at trial would be \$132,620.00 (24,053 total workweeks x \$5 business
16 expenses). Class Counsel also took into consideration that, not only would it have to be
17 established that expenses were incurred, but also that the nature of the expenses were such that
18 Defendant was required to reimburse them. While Class Counsel disagreed with Defendant’s
19 arguments and factual contentions, Class Counsel considered Defendant’s arguments,
20 applicable case law and regulations, the costs and expenses associated with further litigation and
21 certification, the circumstances and realities of the case, and risks to recovery, and applied
22 appropriate discounts for them. At this juncture, a discount of 50% was applied to account for
23 the risks associated with obtaining and maintaining certification (bringing the value of the claim
24 closer to \$66,310.00), a discount of 50% was applied to account for the risks associated with
25 succeeding on the merits and establishing liability (bringing the value of the claim closer to
26 \$33,155.00), and a discount of 40% was applied to account for the risks associated with proving
27 the extent of damages and obtaining an award thereof (bringing the value of the claim closer to
28 \$19,893.00).

G. Unfair Business Practices

61. Plaintiffs' sole cause of action is for Defendant's alleged violation of the California's Unfair Competition Law, Business and Professions sections 17200, *et seq.* ("UCL") which prohibits any "unlawful, unfair or fraudulent business practices." A violation of the UCL may be predicated on the violation of any law.

62. Arguably, California Business and Professions Code section 17208 extends the statute of limitations on Plaintiffs' other allegations, which qualify as unfair business practices, to four (4) years. However, claims brought under the UCL are equitable actions for injunctive or restitutionary relief, and a court may take into consideration equitable defenses when fashioning equitable remedies. Restitution under the UCL is limited to returning to Plaintiffs and putative class members monies unlawfully withheld, such as unpaid wages or unpaid meal or rest period premiums, or restitutionary disgorgement.

63. Plaintiffs contended that each of Defendant's alleged violations of the California Labor Code constitute business practices that are either unlawful (i.e., is forbidden by law) and/or unfair (i.e., harm to victim outweighs any benefit). In order to prevail on the UCL cause of action, Plaintiffs would have to prove that Defendant violated the predicate provisions of law, and that the violations constitute unlawful and/or unfair business acts and practices in violation of California Business and Professions Code sections 17200, *et seq.* Plaintiffs would have to prove that Defendant's conduct throughout the time period at issue has been unfair, unlawful, harmful, and injurious to Plaintiffs and putative class members. With respect to the UCL's standing requirement, Plaintiffs would also have to prove that they suffered an economic injury as a result of Defendant's conduct.

64. As discussed above, Defendant vigorously challenged the likelihood of Plaintiffs' success in establishing that any of provisions of the California Labor Code, on which the UCL claim is predicated, were violated and that such violations were injurious. Throughout this litigation, Defendant also relentlessly challenged Plaintiffs' standing and adequacy to assert class claims and contended there were individualized issues that would pose challenges to certification. When assessing the likelihood of prevailing on this cause of action, Class Counsel

1 considered all of the above, as well as Defendant's factual contentions and legal arguments, the
2 chances of prevailing on the other causes of action, costs and expenses associated with further
3 litigation and certification, and risks to recovery, and applied appropriate discounts for
4 settlement purposes.

5 **H. PAGA Penalties**

6 65. Under the PAGA, civil penalties to be assessed and collected by the state labor
7 agency for a violation of the California Labor Code, may, as an alternative, be recovered by an
8 aggrieved employee plaintiff. If the California Labor Code already specifies and provides a
9 civil penalty for the violation of a provision of the California Labor Code, said civil penalty is
10 recoverable by the aggrieved employee plaintiff. Additionally, the PAGA statute establishes a
11 civil penalty that is recoverable by an aggrieved employee plaintiff, for violation of provisions
12 of the California Labor Code for which the California Labor Code does not specifically provide
13 for a civil penalty, as follows: one hundred dollars (\$100) for each aggrieved employee per pay
14 period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per
15 pay period for each subsequent violation. Cal. Lab. Code § 2699(f). Pursuant to California
16 Labor Code section 2699(i), seventy-five percent (75%) of the penalties recovered must be
17 allocated to the State of California, with the remaining twenty-five percent (25%) allocated to
18 the aggrieved employees. The statute of limitations period applicable to such penalties is one
19 year prior to the filing of the complaint. Cal. Code Civ. Proc. § 340.

20 66. Defendant contended that violations of multiple provisions of the California Labor
21 Code would not give rise to cumulative penalties, and at best, would only trigger an initial
22 violation penalty and a subsequent violation penalty once per pay period, if at all.

23 67. Defendant contended that an important feature of the PAGA statute is that, when
24 determining whether or not to assess a penalty, the court exercises the same discretion that the
25 LWDA has and may reduce the penalties to be assessed against the employer pursuant to section
26 2699(e)(1)-(2). As such, Defendant contended that, with respect to a PAGA claim, the Court
27 was unlikely to assess cumulative penalties for the maximum number of possible, separate
28 California Labor Code violations, because it would be unjust, arbitrary, oppressive, and/or

1 confiscatory, especially where certain conduct may be regulated by multiple provisions of the
2 California Labor Code that are interrelated and work in tandem.

3 68. Defendant also maintained and continues to maintain that it had legally-compliant
4 employment policies and practices throughout the statutory period. Defendant denied and
5 continues to deny that it ever violated any provision of the California Labor Code and argued,
6 that, even if, *arguendo*, such violations occurred, it will not be treated as having engaged in
7 subsequent violations giving rise to heightened penalties. In other words, Defendant argued that
8 heightened civil penalties for subsequent violations would not be assessed unless it could be
9 shown that Defendant had notice that it was violating the law, e.g. because it had been cited by
10 a labor agency or adjudged by a court to have done so. See, e.g., *Amaral v. Cintas Corp. No. 2*
11 (2008) 163 Cal.4th 1157, 1209. Defendant argued that it would be able to show a lack of
12 willfulness in the violations, such that the alleged California Labor Code violations would not
13 be considered “willful.” Defendant contended that, at best, even if a violation giving rise to a
14 penalty was shown for each pay period, only the lower civil penalty associated with initial
15 violations would apply.

16 69. Importantly, to prevail on the PAGA claim, Defendant contended that some courts
17 have required Plaintiffs to show at the outset that they have suffered injury, in order to establish
18 standing, and that Plaintiffs would also have to prove all requisite elements to prove violations
19 of the underlying California Labor Code provisions, in order to show that Defendant’s conduct
20 gave rise to penalties. The unpaid wage and meal and rest period allegations are fundamental to
21 this action; however, for the reasons discussed above, there were substantial challenges to
22 showing liability and exposure for these claims. Defendant argued that Plaintiffs would not be
23 able to establish violations of the underlying California Labor Code provisions and the
24 fundamental allegations regarding unpaid wages and meal and rest periods. Defendant also
25 contended that multiple individualized issues vitiated the manageability of representative
26 adjudication of the PAGA claim.

27 70. Defendant would also likely seek bifurcation of discovery and/or trial of the
28 PAGA claim – many courts have taken such an approach.

1 71. Defendant also maintained that, in addition to its strong arguments against the
2 underlying claims, taking the current unsettled state of law, it would be unjust to award the
3 maximum potential PAGA penalties. There was a dearth of law and guidance regarding trials
4 and/or assessment of penalties under the PAGA statute, and there is no clearly-established
5 methodology for the valuation and/or assessment of PAGA penalties.

6 72. Defendant also contended that before a PAGA claim could be tried, under existing
7 law, the court of law would have to be satisfied that the adjudication of the PAGA claim, based
8 on a theory of uniform wage and hour practices relating to a large group of aggrieved employees,
9 is sufficiently “manageable” so as not to interfere with Defendant’s right to due process.
10 Defendant asserted that the aggrieved employees worked different positions, and that their job
11 roles, job duties, departments, and work hours varied. Defendant contended that there was
12 variation as to the circumstances that could allegedly cause the employees to work off-the-clock,
13 or to be deprived of the opportunity to take legally-compliant, duty-free meal and/or rest periods.
14 Defendant further contended that these issues presented challenges to Plaintiffs’ ability to show
15 that a PAGA claim could be efficiently and manageably adjudicated without abridging
16 Defendant’s due process rights.

17 73. Defendant pointed to case law that held that, given the derivative nature of a
18 PAGA claim, it would stand or fall based on the claims from which it derives, and the success
19 of showing, *inter alia*, off-the-clock work, failure to properly pay wages, failure to reimburse
20 for expenses, etc. Defendant also pointed to case law demonstrating that courts have attributed
21 little separate value to PAGA claims, for example, allowing them to be resolved for \$0 where
22 the other underlying California Labor Code claims are being resolved. See, e.g. *Matter of*
23 *Nordstrom Commission Cases* (2010) 186 Cal.App.4th 576, 588-590 (No abuse of discretion by
24 the trial court in approving the allocation of \$0 toward PAGA penalties, where PAGA claim is
25 resolved as a part of an overall resolution of the underlying California Labor Code violations);
26 *Franco v. Ruiz Food Prods, Inc.* (E.D. Cal. Nov. 27, 2012) No. 1:10-cv-02354-SKO, 2012 WL
27 5941801, at *14 (approving allocation of \$10,000, out of the settlement of \$2.5 million, toward
28 the settlement of the PAGA claim); *Garcia v. Gordon Trucking* (E.D. Cal. Oct. 31, 2012)

No.1:10-CV-0324-AWI-SKO, 2012 WL 5364575, at *3 (approving the allocation of \$10,000, out of the settlement of \$3.7 million, toward the settlement of the PAGA claim); *Chu v. Wells Fargo Investments, LLC* (N.D. Cal. Feb. 16, 2011) No. C 05-4526 MHP, C 0647924 MHP, 2011 WL 672645, at *1 (approving the allocation of \$10,000, out of the settlement of \$6.9 million, toward the settlement of the PAGA claim); *Jack v. Hartford Ins. Co.* (S.D. Cal. Oct. 13, 2011) No. 3:09-cv-1683—MMA (JMA), 2011 WL 4899942, at *18 (approving the allocation of \$3,000, out of the settlement of \$1.2 million, toward the settlement of the PAGA claim); *Schiller v. David's Bridal, Inc.* (E.D. Cal. June 11, 2012) 2012 WL 2117001, at *14 (approving the allocation of \$10,000, out of the settlement of \$518,245, toward settlement of the PAGA claim).

74. Assuming that a court would be satisfied that the PAGA claim was susceptible to being efficiently tried and adjudicated on a representative basis, and assuming that it could be shown that civil penalties in the amount of \$1,550 for an initial and subsequent civil penalty for the payroll records claim and each of the primary claims enumerated above, is owed for each of the 202 aggrieved employees who were estimated to have worked during the one-year statutory period (i.e., from May 10, 2018), the PAGA penalties at issue, which the Court could determine whether or not to assess and whether or not to reduce, were estimated to be approximately \$313,100.00 (202 individuals x \$1,550 civil penalties).

75. Class Counsel recognized the realities of Defendant's arguments, evidence and information obtained through investigations as well as from Defendant, the circumstances and realities of the case, the current state of the law, the costs of continued litigation, and the risks to recovery, and applied appropriate discounts for them. At this juncture, a discount of 25% was applied to account for the risks associated with establishing manageability and possible bifurcation of discovery and/or trial (bringing the value of this claim closer to \$234,825.00), a discount of 40% was applied to account for the risks associated with succeeding on the merits and establishing liability (bringing the value of the claim closer to \$140,895.00), and a discount of 50% was applied to account for the risks associated with proving the extent of penalties that are warranted and possible discretionary reduction of penalties by the Court (bringing the value of the claim closer to \$70,447.50).

1 76. Although, strictly-speaking class certification requirements are not required to be
2 satisfied in order to adjudicate a PAGA claim, the state of the law with respect to the adjudication
3 and valuation of a PAGA claim is uncertain. Instead, what is clear is that the purpose of the
4 PAGA is not to generate revenue for the State, but rather, to facilitate the enforcement of the
5 labor laws. See, e.g., *Williams v. Superior Court* (2017) 3 Cal. 5th 531, 546; *Arias v. Superior*
6 *Court* (2009) 46 Cal.4th 969, 986; Cal. Lab. Code § 2699(i). In assessing the adequacy of the
7 recovery under a PAGA claim, the focus is not the amount which the LWDA and the aggrieved
8 employees are to receive formally in the form of monetary civil penalties, but instead, whether
9 the total settlement amount achieves the PAGA’s objectives. “When PAGA claims are settled,
10 courts “consider whether the proposed PAGA settlement is fair and adequate in view of the
11 purposes and policies of the statute[]” and “[t]hose purposes and policies include benefit[ting]
12 the public by augmenting the state’s enforcement capabilities, encouraging compliance with
13 California Labor Code provisions, and deterring noncompliance.” *O’Connor v. Uber Techs.,*
14 *Inc.*, 201 F. Supp. 3d 1110, 1132-33 and 1135 (N.D. Cal. 2016). A “[c]ourt does not review the
15 PAGA allocation in isolation, but rather reviews the settlement as a whole, to determine whether
16 it is fundamentally fair, reasonable and adequate, with primary consideration for the interests of
17 absent class members.”” LWDA Response at 4, *O’Connor v. Uber Techns.*, No. 13-CV- 03826-
18 EMC, Docket No. 736 (N.D. Cal. July 29, 2016). “PAGA penalties must be evaluated in terms
19 of their public policy objective and not just through the prism of what private relief has been
20 sought or obtained.” *Id.* at 4.

21 77. Here, the overall relief obtained by way of the Settlement is significant, not only
22 from a monetary perspective, but also, from the perspective of deterring noncompliance with
23 (and thereby, facilitating enforcement of) California labor laws. Defendant has agreed to pay
24 \$950,000 to settle disputed claims, and based on the analysis and valuation of the claims, it was
25 determined that a PAGA allocation of \$75,000 is appropriate. The potential value of the PAGA
26 claim is \$313,100.00 (which is 7.01% of the potential value of all of the claims) and the
27 reasonable value of the PAGA claim is \$70,447.50 (which is 7.51% of the reasonable value of
28 all of the claims). As such, it was determined that a PAGA allocation between approximately 5-

10% of the total settlement amount would be reasonable. Under the Settlement, the amount of \$75,000 has been allocated toward PAGA penalties; this is a reasonable allocation because it is 7.89% of the Gross of \$950,000, but also, because the allocation represents 10.61% of the potential value of the PAGA claim and 101.29% of the reasonable value of the PAGA claim. Furthermore, the Settlement fulfills the public policy objective of providing redress to aggrieved employees, providing funds to the State for enforcement of labor laws, and promoting enforcement through deterrence.

I. Summary

78. The foregoing discussion confirms that the amount of the Settlement is adequate in light of the merits of this case, Plaintiffs' allegations and causes of action, the evidence at issue with respect to those allegations and causes of action, and legal and factual arguments and circumstances which pose challenges to monetary recovery. Class Counsel estimates that the potential value to be recovered if Plaintiffs were successful at trial on all of the claims is \$4,466,383.52, and the total value that could reasonably be expected to be awarded at trial, taking into account the likelihood of prevailing and other attendant risks, is \$937,862.24. Seen in this light, the Gross Settlement Fund of \$950,000 represents 21.27% of the potential value and 101.29% of the risk-adjusted value of the claims.

Principle Claim	Potential Value	Risk-Adjusted Realistic Value
1. Failure to Pay Overtime Wages	\$608,460.56	\$153,332.06
2. Failure to Pay Minimum Wages	\$405,551.96	\$60,832.80
3. Failure to Provide Compliant Meal and Rest Periods and Associated Premiums	\$2,027,759.80	\$510,995.47
4. Failure to Timely Provide Wages and Waiting-Time Penalties	\$447,691.20	\$55,961.40
5. Failure to Provide Compliant Wage Statement	\$531,200.00	\$66,400.00
6. Failure to Maintain Requisite Payroll Records	See item 9.	
7. Failure to Reimburse Business Expenses	\$132,620.00	\$19,893.00
8. Unfair Business Practices	See items 1, 2, 3 and 7.	
9. Private Attorneys General Act	\$313,100.00	\$70,447.50
Total:	\$4,466,383.52	\$937,862.24

1 The conclusion to be drawn from the foregoing analysis is that neither class certification,
2 liability, nor the ability to adjudicate and/or recover monetary relief on a class-wide basis is
3 clear-cut, which is why the Parties elected to settle this matter. Class Counsel recognized the
4 circumstances and realities of the case, applicable case law and regulations, the costs and
5 expenses of further litigation and certification, and risks to recovery and applied appropriate
6 discounts as discussed above. This Settlement involves highly disputed claims and, like most
7 other settlements, is the product of compromise.

8 79. Class Counsel submits that the Settlement is fair, reasonable, and adequate, and is
9 in the best interest of the Class. Class Counsel also submits that the Settlement and
10 accompanying moving papers satisfy the requirements set forth in the Class Action Case
11 Management Order #1 issued by the Court, as reflected in the Compliance Chart, attached hereto
12 as “EXHIBIT 5.” Class Counsel further submits that the Settlement is within an acceptable
13 range of recovery for this type of litigation given the strengths and weaknesses of this action,
14 the inherent costs and risks of further litigation, and the costs and risks associated with
15 representative adjudication, class certification, trial, and/or appeals.

16 I declare under penalty of perjury under the laws of the State of California that the
17 foregoing is true and correct.

18 Executed on this 3rd day of March 2021, at Glendale, California.

19
20 _____
Edwin Aiwanian
21
22
23
24
25
26
27
28

EXHIBIT 1

CDF LABOR LAW LLP
Brent M. Giddens, State Bar No. 133652
bgiddens@cdfllaborlaw.com
Ashley A. Halberda, State Bar No. 272762
ahalberda@cdfllaborlaw.com
Brian E. Cole II, State Bar No. 305830
bcole@cdfllaborlaw.com
18300 Von Karman Avenue, Suite 800
Irvine, CA 92612
Telephone: (949) 622-1661

Attorneys for Defendant
INTERNATIONAL E-Z UP INC.

Edwin Aiwasian (SBN 232943)
Arby Aiwasian (SBN 269827)
Joanna Ghosh (SBN 272479)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE, RIVERSIDE COURT

JOSE SALDANA, individually, and on behalf
of other members of the general public
similarly situated,

Plaintiff,

vs.

INTERNATIONAL E-Z UP INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

) Case No. RIC1902873

) Judge: Craig G. Riemer

) Dept: 01

) **JOINT STIPULATION OF CLASS AND
PAGA SETTLEMENT AND RELEASE**

) Action Filed: May 10, 2019

**JOINT STIPULATION OF CLASS AND PAGA
SETTLEMENT AND RELEASE**

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of
2 the Court, that the full and final Settlement of this Action shall be effectuated upon and subject to
3 the following terms and conditions. Capitalized terms shall have the meanings set forth in Article I
4 or as defined elsewhere in this Joint Stipulation of Class and PAGA Settlement and Release
5 (hereinafter the “**Agreement**” or “**Class Settlement Agreement**”).

6 This Agreement is made and entered into by and between Plaintiffs Jose Saldana and
7 Thomas Johns, on behalf of themselves and other similarly situated employees (“**Plaintiffs**”), on
8 the one hand, and Defendant International E-Z Up, Inc. (“**Defendant**”). Plaintiffs and Defendant
9 collectively are referred to in the Agreement as “**the Parties.**”

10 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and
11 concluded by agreement of Defendant to pay no more than the settlement sum of \$950,000 as
12 provided in Section 3.06(a) below (“**Gross Settlement Fund**”), with the addition of the employer’s
13 portion of payroll taxes on the wage portion of the Settlement (which will be paid by Defendant
14 separately and in addition to the Gross Settlement Fund), upon the terms and conditions of the
15 Agreement and for the consideration set forth herein, including, but not limited to, a general release
16 of claims by Named Plaintiffs Jose Saldana and Thomas Johns as described herein, and the release
17 of the Class Members’ claims as set forth in this Agreement.

18 **ARTICLE I**

19 **DEFINITIONS**

20 Unless otherwise defined herein, the following terms used in this Agreement shall have the
21 meanings ascribed to them as set forth below:

22 a. “**Action**” means the case entitled *Jose Saldana, et al. v. International E-Z Up, Inc.*,
23 Riverside County Superior Court, Case No. RIC1902873 commenced on May 10, 2019.

24 b. “**Agreement**” means this Joint Stipulation of Class and PAGA Settlement and
25 Release, including all exhibits attached hereto.

26 c. “**Aggrieved Employees**” means Plaintiffs and Class Members who worked for
27 Defendant within the PAGA Period.

28 ///

d. **“Attorneys’ Fees”** means the payment of attorneys’ fees to Class Counsel in an amount not to exceed \$332,500 (i.e., 35% of Gross Settlement Fund).

e. **“Class”** means all hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the Class Period.

f. **“Class Counsel”** or **“Plaintiffs’ Counsel”** means the attorneys for the Class, who are:

LAWYERS FOR JUSTICE, PC
Edwin Aiwasian, Esq.
Arby Aiwasian Esq.
Joanna Ghosh, Esq.
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020
Facsimile: (818) 265-1021

g. **“Class List”** means a true and complete list of all Class Members that Defendant will compile, based on its business records, and provide to the Settlement Administrator within ten (10) calendar days after the Court grants preliminary approval of the Settlement. The Class List shall be formatted in Microsoft Office Excel and shall include each Class Member’s full name, his or her last known home address, telephone number, Social Security number, beginning and ending dates of employment.

h. **“Class Member(s)”** mean(s) all members of the Class.

i. **“Class Period”** means the time period from May 10, 2015 until May 8, 2020 or the date of preliminary approval, whichever is sooner.

j. **“Class Settlement”** means this Settlement as it pertains to the settlement of class action claims.

k. **“Court”** means the Riverside County Superior Court in which the Action is pending.

l. **“Defendant”** means International E-Z Up, Inc.

m. **“Defendant’s Counsel”** or **“Defense Counsel”** means:

CDF LABOR LAW LLP
Brent M. Giddens
bgiddens@cdfllaborlaw.com
Ashley A. Halberda

1 ahalberda@cdflaborlaw.com
2 Brian E. Cole II
3 bcole@cdflaborlaw.com
4 18300 Von Karman Ave., Suite 800
Irvine, CA 92612
Tel: (949) 622-1661

5 n. **“Disposition”** means the method by which the Court adopts the terms of the
6 Settlement and Agreement, which may be by judgment or other final order, and retains jurisdiction
7 over the enforcement, implementation, construction, administration, and interpretation of the
8 Settlement and Agreement.

9 o. **“Effective Date”** of this Settlement shall be the later of the time when: (i) the date
10 of final affirmance of the Judgment on an appeal of the Judgment, the expiration of the time for, or
11 the denial of, a petition to review the Judgment, or if review is granted, the date of final affirmance
12 of the Judgment following review pursuant to that grant, (ii) the date of final dismissal of any
13 appeal from the Judgment or the final dismissal of any proceeding to review the Judgment,
14 provided that the Judgment is affirmed and/or not reversed in any part, (iii) the final resolution (or
15 withdrawal) of any filed appeal or other proceeding to set aside the Judgment in a way that affirms
16 the Final Approval Order and Judgment in a form substantially identical to the form of the Final
17 Approval Order entered by the Court, and the time to petition for review with respect to any
18 appellate decision affirming the Final Approval Order has expired; or (iv) if no objection is made
19 or a timely made objection is made and then withdrawn, then the Effective Date shall be the day
20 the Court enters final approval of the Settlement and the Judgment approving this Agreement..

21 p. **“Enhancement Awards”** means a monetary amount of up to \$7,500.00 for Plaintiff
22 Jose Saldana and \$5,000 to Plaintiff Thomas Johns, subject to Court approval, which will be paid
23 pursuant to Section 3.06(c) of this Agreement.

24 q. **“Final Approval Hearing”** means the hearing at which the Court enters a judgment
25 or other order approving the Settlement and Agreement and terminating the Action.

26 r. **“Final Approval Order and Judgement”** or **“Final Order”** means the final formal
27 court order signed by the Court at or after the Final Approval Hearing in accordance with the terms
28 herein approving this Agreement.

s. **“Gross Settlement Fund”** means the maximum settlement sum of \$950,000, to be paid by Defendant under the terms and conditions of this Agreement. Defendant shall remit its share of the employer’s payroll taxes, as provided herein, separately and in addition to the Gross Settlement Fund.

t. **“Individual Settlement Payments”** means the amount of money from the Net Settlement Amount that shall be paid to the Settlement Class Members. Individual Settlement Payments will be each Settlement Class Member’s *pro rata* share of the Net Settlement Amount (which share shall be determined by the calculations provided in this Agreement), minus the employee’s share of payroll and income taxes on the portion which is wages and all other applicable deductions or withholding required by law or expressly authorized by the Class Member.

u. **“Individual PAGA Payments”** means the amount of money from the PAGA Settlement Amount that shall be paid to the Aggrieved Employees. Individual PAGA Payments will be each Aggrieved Employee’s *pro rata* share of 25% of the PAGA Settlement Amount (which share shall be determined by the calculations provided in this Agreement).

v. **“Litigation Costs”** means the reimbursement of actual litigation costs and expenses incurred by Class Counsel in the course of this Action in an amount not to exceed \$40,000.00.

w. **“LWDA”** means the California Labor and Workforce Development Agency.

x. **“Named Plaintiffs”** or **“Plaintiffs”** means Jose Saldana and Thomas Johns.

y. **“Net Settlement Amount”** means the Gross Settlement Fund less all of the following as approved by the Court: (a) Enhancement Awards to Plaintiffs; (b) Attorneys’ Fees to Class Counsel; (c) Litigation Costs to Class Counsel; (d) Settlement Administration Costs to Settlement Administrator; and (e) PAGA Settlement Amount to the LWDA and Aggrieved Employees.

z. **“Class Notice”** means the Notice of Proposed Class Action Settlement substantially in the form attached hereto as “Exhibit A” (the **“Notice”**).

aa. **“Operative Complaint”** means the First Amended Class Action Complaint for Damages and Enforcement of the Private Attorneys General Act, Cal. Lab. Code § 2698, *Et Seq.*

1 attached hereto as “Exhibit B” pursuant to Section II.b. below.

2 bb. **“Opt-Out Request”** means a written request to be excluded from the Class
3 Settlement or completed Exclusion Form pursuant to Section 3.04(b) below.

4 cc. **“PAGA”** means the Private Attorneys General Act of 2004, California *Labor Code*
5 §§2698 *et seq.*

6 dd. **“PAGA Period”** means the time period from May 10, 2018 to May 8, 2020 or the
7 date of preliminary approval, whichever is sooner.

8 ee. **“PAGA Settlement”** means this Settlement as it pertains to the settlement of claims
9 arising under PAGA.

10 ff. **“PAGA Settlement Amount”** means \$75,000 allocated to the settlement of claims
11 arising under PAGA, seventy-five percent (75%) of which, or Fifty-Six Thousand Two Hundred
12 Fifty Dollars (\$56,250.00), will be paid to the LWDA and twenty-five percent (25%) of which, or
13 Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750.00), will be paid to Aggrieved
14 Employees.

15 gg. **“Parties”** means collectively Plaintiffs and Defendant.

16 hh. **“Pay Period”** means a pay period during the PAGA Period during which an
17 Aggrieved Employee worked for Defendant as an hourly-paid or non-exempt employee in
18 California. Each Aggrieved Employee will be credited with at least one (1) Pay Period.

19 ii. **“Preliminary Approval Date”** means the date on which the Court preliminarily
20 approves the Settlement embodied in this Agreement, including, without limitation, the Class
21 Notice, Exclusion Form, and Objection Form.

22 jj. **“Settlement”** means the resolution of this Action and all related claims effectuated
23 by this Agreement.

24 kk. **“Settlement Class Members”** means all Class Members who do not request
25 exclusion from the Class Settlement.

26 ll. **“Settlement Administration Costs”** means all costs incurred by the Settlement
27 Administrator in administration of the Settlement, including, but not limited to, any notices that
28 must be provided to the Class (including a Spanish translation), calculating employer payroll taxes,

1 performing address updates and verifications as necessary prior to the first mailing, performing a
2 single address follow-up on any returned mail, calculating Individual Settlement Payments and
3 Individual PAGA Payments and tax withholdings, providing declarations, generating Individual
4 Settlement Payment checks and related tax reporting forms, completing administrative work related
5 to unclaimed checks, if any, processing and sending uncashed checks to defense counsel on behalf
6 of Defendant, generating checks to Class Counsel for Attorneys' Fees and Litigation Costs, and to
7 Plaintiffs for their Enhancement Awards, and any other actions of the Settlement Administrator as
8 set forth in this Agreement, all pursuant to the terms of this Agreement.

9 mm. **"Settlement Administrator"** means Simpluris, Inc., which was mutually selected
10 by the Parties for the administration of the Settlement including, without limitation, the distribution
11 of the Individual Settlement Payments and Individual PAGA Payments to be made by Defendant
12 from the Gross Settlement Fund and related matters under this Agreement.

13 nn. **"Total Pay Periods"** means the total aggregate number of Pay Periods of all
14 Aggrieved Employees.

15 oo. **"Total Workweeks"** means the total aggregate number of Workweeks of all
16 Settlement Class Members

17 pp. **"Workweek"** means a week during the Class Period commencing on Sunday and
18 ending on the following Saturday in which a Class Member worked one or more days. Each Class
19 Member will be credited with at least one (1) Workweek.

20 **ARTICLE II**

21 **FACTUAL BACKGROUND**

22 a. On or about May 10, 2019, Plaintiff Jose Saldana filed the Class Action Complaint
23 for Damages, commencing the Action in California Superior Court for the County of Riverside,
24 Case No. RIC1902873, alleging putative class claims for: (1) Violation of California Labor Code
25 §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 226.7 and 512(a)
26 (Unpaid Meal Period Premiums); (3) Violation of California Labor Code §§ 226.7 (Unpaid Rest
27 Break Premiums); (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid
28 Minimum Wages); (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not

1 Timely Paid); (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During
2 Employment); (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
3 (8) Violation of California Labor Code § 1174(d) (Failure to Keep Requisite Payroll Records); (9)
4 Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses); and
5 (10) Violation of California Business & Professions Code §§ 17200, *et seq.* Plaintiff Saldana will
6 seek leave to file and file the First Amended Class Action Complaint for Damages and
7 Enforcement of the Private Attorneys' General Act, Cal. Lab. Code § 2698, *Et Seq.* ("First
8 Amended Complaint") in the Action to add Plaintiff Johns as a named plaintiff and formally
9 alleged a claim for civil penalties under PAGA. The First Amended Complaint is the **"Operative**
10 **Complaint"**.

11 **b.** Defendant generally denies all of the allegations asserted in the Action, including
12 those in the Operative Complaint, and specifically denies any violation of the (i) California *Labor*
13 *Code*, (ii) the California Industrial Welfare Commission Wage Orders, and/or (iii) California
14 *Business and Professions Code*. Defendant further denies any pendant or related charges, denies
15 violating any other law or right of Plaintiffs, any Class Member, or any Aggrieved Employee and
16 denies any liability is owed to Plaintiff, Class Members, and Aggrieved Employees.

17 **c.** On December 11, 2019 and then on February 8, 2020, the Parties engaged in private
18 mediation with Jeffrey Krivis, Esq., an experienced wage and hour class action mediator, and
19 thereafter reached an agreement to resolve this matter. The settlement discussions were conducted
20 at arm's-length. The Settlement is the result of an informed and detailed analysis of the risks
21 facing both parties in litigating this case, including but not limited to, careful consideration of the
22 legal and factual obstacles to Plaintiffs' prospects of obtaining class certification and on the merits,
23 and Defendant's defenses, as well as Defendant's potential exposure and the additional costs of
24 litigating the Action.

25 **d.** It is the desire of the Parties to fully, finally, and forever settle, compromise and
26 discharge any and all known and unknown claims that were raised, or could have been raised
27 during the Class Period and PAGA Period based upon the facts alleged in this Action, including
28 those to be alleged in the Operative Complaint. In order to achieve a full and complete release of

1 Defendant, each Class Member acknowledges that this Settlement Agreement is intended to
2 include in its effect all claims of any nature that were raised in the Action, or could have been
3 raised based upon the facts alleged in this Action on behalf of Class Members, including, but not
4 limited to (1) all statutory and common law causes of action referenced in the Action and
5 corresponding provisions of the applicable Industrial Welfare Commission Wage Orders,
6 including, but not limited to unpaid overtime, unpaid meal period premiums, unpaid rest break
7 premiums, unpaid minimum wages, final wages not timely paid, wages not timely paid during
8 employment, non-compliant wage statements, failure to keep requisite payroll records,
9 unreimbursed business expenses, including but not limited to violations of and claims arising under
10 California law, Labor Code sections 201-204, 206, 210, 218.5, 218.6, 221, 226, 226.3, 226.7,
11 227.3, 256, 510, 512, 551, 552, 558, 558.1, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197-
12 1198, 1198.5, 1199, 2751, 2698 *et seq.*, 2800, 2802, 2810.5, 6401, 6403, and claims for civil
13 penalties pursuant to or based on these sections can only be recovered in a PAGA action; the
14 applicable Industrial Welfare Commission Wage Orders; Cal. Code Regs. Title 8, § 11070; and the
15 Business & Professions Code §17200, *et seq.* as it relates to the underlying Labor Code claims
16 referenced above, interest, attorneys' fees and costs, including as permissible under California
17 Code of Civil Procedure § 1021.5, or (2) any of the facts, transactions, events, occurrences, acts,
18 disclosures, statements, omissions, or failures to act which were or could have been asserted based
19 on the facts and claims pleaded in the Action.

20 **e.** It is the intention of the Parties that this Settlement Agreement shall constitute a full
21 and complete settlement and release of all claims set forth in Section 5.01 below.

22 **f.** Named Plaintiffs and Class Counsel have each conducted a thorough investigation
23 into the facts of this class action case, including an extensive review of relevant documents, and
24 have diligently pursued an investigation of Class Members' claims against Defendant. Based on
25 their respective own independent investigation and evaluation, Named Plaintiffs and Class Counsel
26 are each of the opinion that the Settlement with Defendant for the consideration and on the terms
27 set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of
28 the Settlement Class in light of all known facts and circumstances, including the risk of significant

1 delay, the risk the Class will not be certified by the Court, defenses asserted by Defendant, and
2 numerous potential appellate issues.

3 **g.** The Parties agree to cooperate and take all steps necessary and appropriate to
4 consummate this Settlement and that the Final Approval Order and Judgement shall have a *res*
5 *judicata* effect.

6 **h.** The maximum total payment under the Settlement, including all Individual
7 Settlement Payments, Attorneys' Fees, Litigation Costs, Enhancement Award, and PAGA
8 Settlement Amount any other payments provided by this Settlement, is the Gross Settlement Fund.
9 Notwithstanding the foregoing, Defendant shall be responsible for paying the employer's portion of
10 payroll taxes on the wage portion of each Individual Settlement Payment. It is understood and
11 agreed that other than the employer's portion of payroll taxes on the wage portion of each
12 Individual Settlement Payment, Defendant's maximum total liability under this Settlement shall not
13 exceed the Gross Settlement Fund.

14 **i.** It is understood that the Gross Settlement Fund is non-reversionary. To the extent
15 that an Individual Settlement Payment check or Individual PAGA Payment Check is (1)
16 undeliverable, after skip tracing performed by the Settlement Administrator as provided in
17 paragraph 3.03 below, or (2) uncashed 180 days after the date listed on the check, the amount of
18 those checks will be distributed to a *cy pres* recipient pursuant to *Code of Civil Procedure* section
19 384 (i.e., in no event will any of the funds revert to Defendant).

20 **j.** It is further understood and agreed that Named Plaintiffs and/or Class Counsel shall
21 not issue any public statement to the media, press, or otherwise concerning this Action and/or any
22 business practice, procedure, or policy of Defendant, except as specified in Section 6.25 of this
23 Agreement.

24 **k.** The Settlement embodied in this Agreement contemplates the (i) entry of an order
25 approving certification of a Class for settlement purposes only, (ii) entry of a Final Approval Order
26 and Judgment, (iii) entry of Disposition enforcing the terms of the Settlement and retaining
27 jurisdiction, (iv) release, as set forth below in Section 5.01 below, by all Settlement Class
28 Members, including Named Plaintiffs, of all Released Class Claims and release by all Aggrieved

1 Employees of all Released PAGA Claims, and (vi) a general release by Named Plaintiffs of all
2 known and unknown claims against Defendant, its officers, directors, and employees pursuant to
3 California Civil Code section 1542.

4 **ARTICLE III.**

5 **PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF SETTLEMENT**

6 Because the Parties have stipulated to the certification of the Class with respect to all causes
7 of action alleged in the Operative Complaint in this Action for settlement purposes only, this
8 Agreement requires preliminary and final approval by the Court. Accordingly, the Parties enter
9 into this Agreement on a conditional basis. This Agreement is contingent upon the approval and
10 certification of the Class by the Court. If the Effective Date does not occur, this Agreement shall
11 be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to or
12 used for any purpose whatsoever.

13 The Parties and their respective counsel shall take all reasonable steps that may be
14 requested by the Court relating to the approval and implementation of this Agreement and shall
15 otherwise use their respective best efforts to obtain Court approval and implement this Agreement.
16 If the Court does not grant the motion for Preliminary Approval and/or the motion for Final
17 Approval, the Parties agree to meet and confer to address the Court's concerns.

18 The procedure for obtaining Court approval of and implementing this Agreement shall be as
19 follows:

20 **Section 3.01 Motion for Preliminary Approval of Class Action and PAGA Settlement**

21 Promptly upon execution of this Agreement, the Parties shall submit this Agreement to the
22 Court and request preliminary approval and determination by the Court as to its fairness, adequacy,
23 and reasonableness. Class Counsel will prepare and file the motion for preliminary approval of
24 settlement. Upon receipt of the motion for preliminary approval and all supporting documents,
25 Defendant shall have a minimum of two (2) calendar days to review the motion for preliminary
26 approval of settlement before Class Counsel files the motion for preliminary approval with the
27 Court.

28 ///

1 Pursuant to Labor Code section 2699(l)(2), Plaintiff will simultaneously cause this
2 Settlement Agreement to be filed with the LWDA using the appropriate website and intake forms
3 located at: [https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html)
4 [Act.html](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html).

5 In seeking preliminary approval of this Agreement, the Parties shall apply to the Court for
6 the entry of a preliminary order seeking certification this Action under section 382 of the California
7 Code of Civil Procedure and Rules 3.760 *et seq.* of the California Rules of Court as a class action
8 for purposes of settlement only with respect to the Class; approving the proposed Notice as to form
9 and content; directing the mailing of the notice to the Class Members; preliminarily approving the
10 Settlement subject only to the objections of Class Members and final review by the Court;
11 preliminarily approving Class Counsel's request for Attorneys' Fees and Litigation Costs subject to
12 final review by the Court; preliminarily approving estimated Settlement Administration Costs
13 payable to the Settlement Administrator; and preliminarily approving Named Plaintiffs'
14 Enhancement Awards.

15 **Section 3.02 The Settlement Administrator**

16 The Parties have chosen Simpluris, Inc. to administer this Settlement and to act as the
17 Settlement Administrator, including, but not limited to, distributing any notices that must be
18 provided to the Class, performing address updates and verifications as necessary prior to the first
19 mailing, performing a single address follow-up on any returned mail, responding to inquiries about
20 the Class Notice, determining the validity of all Opt-Out Requests, calculating the Net Settlement
21 Amount and the Individual Settlement Payments, calculating the Individual PAGA Payments,
22 calculating employer payroll taxes, preparing tax statements and/or reports and remitting the
23 necessary tax payments, providing necessary progress reports, preparing declarations required by
24 the Court, preparing a detailed declaration that sets forth the number of Settlement Class Members
25 and each of the Class Members who did submitted a timely and valid Opt-Out Requests, and, with
26 notice and consent of the Parties, generating and issuing the Individual Settlement Payment checks
27 and distributing them to Settlement Class Members and Individual PAGA Payment checks and
28 distributing them to Aggrieved Employees, and issuing the payments to Class Counsel for

1 Attorneys' Fees and Litigation Costs, the Enhancement Award checks to the Named Plaintiffs,
2 processing and remitting uncashed checks (if any) to the *cy pres* recipient, and any other actions of
3 the Settlement Administrator as set forth in this Agreement, all pursuant to the terms of this
4 Agreement.

5 The Settlement Administrator shall expressly agree to all of the terms and conditions of this
6 Agreement relating to the administration of the Settlement. The Parties each represent that they do
7 not have any financial interest in the Settlement Administrator or otherwise have a relationship
8 with the Settlement Administrator that could create a conflict of interest.

9 The Settlement Administrator shall provide Defense Counsel and Class Counsel a weekly
10 report that certifies: (i) the number of Class Members to whom the Settlement Administrator has
11 mailed the Class Notice; (ii) the number of Class Notices that were returned as undeliverable; (iii)
12 the number of Class Members who have submitted valid Opt Out Requests; (iv) the number of
13 Class Members who have submitted Workweek Challenges; and (v) the number of Settlement
14 Class Members who have submitted Objections. Additionally, the Settlement Administrator will
15 provide to Defense Counsel and Class Counsel any updated reports regarding the administration of
16 the Settlement Agreement.

17 The Settlement Administrator shall maintain throughout the administration of the
18 Settlement all of the Opt-Out Requests that it receives. At the conclusion of the administration of
19 the Settlement, the Settlement Administrator shall retain all Opt-Out Requests for an additional
20 four years. The Settlement Administrator shall provide to Defense Counsel and Class Counsel all
21 Opt-Out Requests.

22 All costs of administering the Settlement, including, but not limited to, all costs and fees
23 associated with preparing, issuing, and mailing any and all notices to Class Members and/or
24 Settlement Class Members, all costs and fees associated with computing, processing, reviewing,
25 and mailing the Individual Settlement Payments and Individual PAGA Payments, all costs and fees
26 associated with preparing any tax returns and any other filings required by any governmental taxing
27 authority or agency, all costs and fees associated with preparing any other checks, notices, reports,
28 or filings to be prepared in the course of administering disbursements from the Net Settlement

1 Amount, and any other costs and fees incurred and/or charged by the Settlement Administrator in
2 connection with the carrying out of its duties under this Agreement are contemplated and paid by
3 the Settlement Administration Costs, shall be deducted from the Gross Settlement Fund.

4 The Settlement Administrator shall be required to acknowledge that in its role as Settlement
5 Administrator it owes fiduciary obligations to the Named Plaintiffs and Class Members and will be
6 required to attest that it will make payments consistent only with the terms of this Agreement,
7 including the allocation instructions set forth in this Agreement, or as ordered by the Court. In no
8 event shall the Settlement Administrator permit the disbursement of any portion of the Gross
9 Settlement Fund before the Effective Date. The obligations of the Settlement Administrator are
10 released upon all funds being disbursed by the Settlement Administrator pursuant to this
11 Agreement and/or order(s) of the Court.

12 **Section 3.03 Notice to the Class**

13 Notice of the Settlement shall be provided to the Class Members in both English and
14 Spanish, and the Class Members may submit Objections and/or Opt Out Requests from the Class
15 by using the following procedures:

16 Within ten (10) calendar days after the Court preliminarily approves the Settlement,
17 Defense Counsel will provide the Class List to the Settlement Administrator.

18 Within ten (10) calendar days after the receipt of the Class List, the Settlement Administrator
19 shall update the addresses using the United States Postal Service's NCOALink system and mail the
20 Class Notice, Exclusion Form, and Objection Form (together, "Notice Packet") by first-class United
21 States mail to each Class Member. Any Notice Packet returned to the Settlement Administrator as
22 non-delivered on or before the Response Deadline shall be re-mailed once to the forwarding address
23 affixed thereto. If no forwarding address is provided, the Settlement Administrator shall promptly
24 attempt to determine a correct address by use of telephonic inquiry, skip-tracing, or other search
25 using the name, address and/or Social Security number of the Class Member involved, and shall then
26 perform one re-mailing, if another mailing address is identified by the Settlement Administrator. The
27 Settlement Administrator shall promptly notify Class Counsel and Defense Counsel if any Notice
28 Packets are returned as undeliverable and no forwarding address is available. Settlement Class

Members who receive a re-mailed Notice Packet shall have their Response Deadline extended by fifteen (15) calendar days.

No later than twenty-one (21) calendar days prior to the Final Approval Hearing, or seven (7) calendar days prior to Plaintiffs' submission of the motion for final approval and for approval of fees and costs, whichever is earlier, the Settlement Administrator shall provide Class Counsel and Defense Counsel with a declaration attesting to completion of the notice process, including but not limited to any attempts to obtain valid mailing addresses for Class Members and re-sending any returned Notice Packets, as well as the number of Opt Out Requests, Objections, or Workweek Challenges that the Settlement Administrator received and the dates that the Settlement Administrator received those Opt Out Requests, Objections, or Workweek Challenges.

Compliance with the procedures described in this Section shall constitute due and sufficient notice to Class Members of this proposed Settlement and the Final Approval Hearing, and shall satisfy the requirements of due process. Nothing else shall be required of, or done by, the Parties, Class Counsel, Defense Counsel, or the Settlement Administrator to provide notice of the proposed Settlement and the Final Approval Hearing.

Section 3.04 Responses to Notice

a. No Claim Forms

Settlement Class Members are not required to submit claim forms for their share of the Net Settlement Amount.

Any Settlement Class Member who disagrees with the number of Workweeks used to calculate his or her Individual Settlement Payment as reflected on the Class Notice shall be allowed to indicate and explain their challenge by submitting a written dispute to the Settlement Administrator ("Workweek Challenge). In order to be timely, a Workweek Challenge must be postmarked or faxed to the Settlement Administrator no later than forty-five (45) days after the date the Notice Packet is first mailed (the "**Response Deadline**"), unless extended as provided in section 3.03, above. In order to be valid, a Workweek Challenge must: (1) contain the Class Member's name, telephone number, address, and the last four numbers of his or her Social Security number; (2) list the case name and number of the Action; (3) clearly state that the Class Member

1 believes the Workweeks allocated to him or her is not correct; (4) clearly state the number of
2 Workweeks the Class Member contends is correct; and (5) attach any written documentation to
3 support the Class Member's contention.

4 The Settlement Administrator shall resolve the Workweek Challenge with the Class
5 Member using the employee records provided by Defendant and the Class Member, in consultation
6 with Class Counsel and Defense Counsel. Any disputes not otherwise resolved by the Settlement
7 Administrator and Class Counsel and Defense Counsel concerning administration of the Settlement
8 shall be resolved by the Court, under the laws of the State of California. Prior to any such
9 involvement of the Court, counsel for the Parties will confer in good faith to resolve the Workweek
10 Challenges. The date of the postmark on the return envelope or the fax confirmation of the
11 Settlement Administrator shall be the exclusive means used to determine whether a Class Member
12 has submitted a timely Workweek Challenge.

13 **b. Request for Exclusion from Class**

14 By entering into this Agreement, Named Plaintiffs agree that they are not requesting and
15 will not be requesting exclusion from the Class.

16 The Notice shall provide that Class Members who wish to exclude themselves from the
17 Class must submit a written request to be excluded from the Class Settlement or a completed
18 Exclusion Form (attached hereto as "Exhibit C") to the Settlement Administrator ("Opt Out
19 Request"). In order to be timely, an Opt Out Request must be postmarked or faxed to the
20 Settlement Administrator no later than the applicable Response Deadline. In order to be valid, an
21 Opt Out Request must: (1) contain the Class Member's name, telephone number, address, and the
22 last four numbers of his or her Social Security number; (2) list the case name and number of the
23 Action; and (3) clearly state that the Class Member wishes to be excluded from the Class
24 Settlement. The date of the postmark on the return mailing envelope shall be the exclusive means
25 used to determine whether an Opt-Out Request has been timely submitted. Any Class Member
26 who opts out of the Class Settlement will not be entitled to any recovery under the Class Settlement
27 and will not be bound by the Class Settlement or any release of the Released Class Claims in the
28 Action or have any right to object, appeal, or comment on the Settlement. Class Members who fail

1 to submit a valid and timely Opt-Out Request on or before the Response Deadline shall be bound
2 by all terms of the Settlement and any Final Judgment entered in this Action if the Settlement is
3 approved by the Court, including a full and final release of all claims set forth in the Action. No
4 later than five (5) days after the Response Deadline, the Settlement Administrator shall provide
5 Defense Counsel with a complete list of all Class Members who have timely and properly
6 requested exclusion from the Class.

7 Class Members who worked for Defendant within the PAGA Period will remain Aggrieved
8 Employees regardless of whether they submit a timely and valid Opt Out Request and will release
9 the Released PAGA Claims and receive an Individual PAGA Payment.

10 **c. Objections to Class Settlement**

11 The Notice shall provide that Class Members who wish to object to the Class Settlement
12 must either submit a written statement objecting to the Class Settlement or completed Objection
13 Form (attached hereto as “Exhibit D”) to the Settlement Administrator (“Objection”) or appear at
14 the Final Approval Hearing and make an oral objection. In order to be timely, an Objection must
15 be postmarked or faxed to the Settlement Administrator no later than the applicable Response
16 Deadline. In order to be valid, an Objection must (1) contain the Settlement Class Member’s name,
17 telephone number, address, and the last four numbers of his or her Social Security number; (2) list
18 the case name and number of the Action; (3) clearly state that the Settlement Class Member objects
19 to the Class Settlement; and (4) clearly state the factual and/or legal basis of their objection. The
20 Parties will be permitted to respond in writing to such Objections before the Final Approval
21 Hearing or within the time period set by the Court. Class Members who fail to make objections in
22 the manner specified above shall be deemed to have waived any objections and shall be foreclosed
23 from making any objections (whether by appeal or otherwise) to the Settlement.

24 **d. No Solicitation of Objections or Opt Out Requests**

25 The Parties agree to use their best efforts to carry out the terms of this Settlement. At no
26 time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members
27 to submit oral or written objections to the Settlement or Opt-Out Requests, appeal from the Court’s
28 Final Judgment or seek to vacate or set aside the final judgment. Further, at no time shall any of

1 the Parties or their counsel discourage any Class Members from participating in the Settlement.

2 **e. Failure to Object**

3 Any Settlement Class Member who fails to timely submit a valid Objection shall be
4 foreclosed from making any objection to this Settlement and Agreement, unless otherwise ordered
5 by the Court, except that any Settlement Class Member may appear at the Final Approval Hearing
6 and make an oral objection, as provided in subsection (c), above.

7 **f. Right of Plaintiffs and Defendant to Void Agreement**

8 If five percent (5%) or more of the Class Members submit timely and valid Opt-Out
9 Requests as described in Section 3.04(b) above, Defendant will have the right, but not the
10 obligation, to revoke and void this Agreement at their discretion. Defendant must exercise its right
11 to revoke this Agreement within fourteen (14) days of being informed by the Settlement
12 Administrator that more than five percent (5%) of the Class Members opted out of this Agreement.
13 If Defendant exercises its right to void the Agreement, then the Parties will have no further
14 obligations under the Agreement, including, without limitation, any obligation by Defendant to pay
15 the Gross Settlement Fund, or any amounts that otherwise would have been owed under this
16 Agreement. If the number of Workweeks for the time period from May 10, 2015 to November 20,
17 2019 exceeds 24,053 (i.e., the number of Workweeks provided to Class Counsel prior to mediation)
18 by 5% or more, Plaintiffs will have the right, but not the obligation, to revoke and void this
19 Agreement at his discretion. Plaintiffs must exercise his right to revoke this Agreement within
20 fourteen (14) days of being informed by the Settlement Administrator of the applicable number of
21 Workweeks.

22 **Section 3.05 Final Approval Hearing**

23 A Final Approval Hearing shall be held before the Court on the date set forth in the Order
24 for Preliminary Approval and Class Notice. At the Final Approval Hearing, the Court shall (1)
25 review this Agreement and determine whether the Court should give it final approval, (2) set the
26 amounts of the Enhancement Award and Attorneys' Fees and Litigation Costs, and (3) consider
27 any timely objections made pursuant to Section 3.04(c) above and all responses by the Parties to
28 such objections. At the Final Approval Hearing, the Parties shall ask the Court to give final

1 approval to this Settlement and Agreement and shall submit to the Court a proposed Final Approval
2 Order and Judgment, which the Parties shall jointly agree upon in advance and which shall be
3 entered in the Action.

4 After entry of the Final Judgment, the Court shall have continuing jurisdiction with respect
5 to the interpretation, implementation, and enforcement of the terms of this Agreement and all
6 orders and judgments entered in connection with this Agreement, and the Parties and their counsel
7 submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the
8 settlement embodied in this Agreement, and all orders and judgments entered in connection with
9 this Agreement.

10 **a. Waiver of Right to Appeal**

11 Provided that the Final Order is consistent with the terms and conditions of this Agreement,
12 Named Plaintiffs, as well as any Settlement Class Members who did not timely submit an
13 Objection and/or appear at the Final Approval Hearing and offer an oral objection, hereby waives
14 any and all rights to appeal from the Final Order, including all rights to any post-judgment
15 proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, a motion for
16 new trial, and any extraordinary writ, and the Final Order therefore will become final and non-
17 appealable at the time it is entered. This waiver does not include any waiver of the right to oppose
18 any appeal, appellate proceedings, or post-judgment proceedings nor does this waiver preclude
19 Plaintiffs and/or Class Counsel from appealing any award of Enhancement Awards or Attorneys'
20 Fees and Litigation Costs of suit.

21 **b. Vacating, Reversal, or Material Modification on Appeal or Review**

22 If, after a notice of appeal or a petition for a writ of *certiorari* or any other motion, petition,
23 or application, the reviewing court vacates, reverses, or modifies the Final Order such that there is a
24 material modification to the Settlement and Agreement, and that court's decision is not completely
25 reversed and the Final Order is not fully affirmed on review by a higher court, then Named
26 Plaintiffs and Defendant will each have the right to void the Settlement and Agreement, which the
27 Parties must do by giving written notice to the other Parties, the reviewing court, and the Court not
28 later than fourteen (14) days after the reviewing court's decision vacating, reversing, or materially

1 modifying the Final Order becomes final. A vacation, reversal, or modification of the Court's
2 award of an Enhancement or Class Counsel's fees or costs will not constitute a vacation, reversal,
3 or material modification of the Final Order within the meaning of this paragraph, provided that
4 Defendant's obligation to make payments remains limited as set forth in this Agreement.

5 **c. Rendering the Settlement Null and Void**

6 In the event: (i) either party elects to void this Agreement pursuant to Section 3.04(f)
7 above; (ii) the Court does not enter any order specified in this Agreement; (iii) the Court does not
8 finally approve the Settlement as provided in this Agreement; (iv) the Court does not enter a Final
9 Judgment as provided in this Agreement which becomes final as a result of the occurrence of the
10 Effective Date; or (v) the Settlement does not become final for any other reason, this Settlement
11 Agreement shall be null and void and any order or judgment entered by the Court in furtherance of
12 this Settlement shall be treated as void, the Parties and any funds to be awarded under this
13 Settlement shall be returned to their respective positions at the time of the execution of this
14 Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement
15 had not been executed, except that any fees already incurred by the Settlement Administrator shall
16 be split between the Parties.

17 **d. Administration of the Settlement with Appeal Pending**

18 In the event an appeal is filed from the Court's Final Judgment, or any other appellate
19 review is sought prior to the Date of Finality, administration of the Settlement shall be stayed
20 pending final resolution of the appeal or other appellate review.

21 **Section 3.06 Settlement Payment Procedures**

22 **a. Settlement Sum**

23 The Gross Settlement Fund of \$950,000 includes the following: (a) Enhancement Awards
24 to Plaintiff Saldana in an amount not to exceed \$7,500.00 and to Plaintiff Johns in an amount not to
25 exceed \$5,000.00; (b) an award of Attorneys' Fees to Class Counsel in an amount not to exceed
26 \$332,500; (c) an award of Litigation Costs to Class Counsel in an amount not to exceed
27 \$40,000.00; (d) the Settlement Administration Costs not to exceed \$10,000 to the Settlement
28 Administrator; and (e) the allocation of the PAGA Settlement Amount in the amount of \$75,000 to

1 be distributed to the LWDA and Aggrieved Employees.

2 The Gross Settlement Fund has a maximum value of \$950,000. Under no circumstances
3 will Defendant be required to pay more than \$950,000, pursuant to the terms set forth in this
4 Agreement, except that Defendant shall separately pay for the employer's portion of any payroll
5 taxes due on the wage portion of each Individual Settlement Payment.

6 **b. Payment of Attorneys' Fees and Costs**

7 Class Counsel may request that the Court approve, and Defendant will not oppose, an award
8 of up to \$332,500 for Attorneys' Fees and up to \$40,000.00 for Litigation Costs. The Attorneys'
9 Fees and Litigation Costs will cover: all work performed and all fees and costs incurred to date and
10 all work to be performed and all fees and costs to be incurred in connection with the approval by
11 the Court of this Settlement, Class Counsel's supervision of administration of the Settlement, and
12 obtaining final approval of this Settlement and entry of judgment. Plaintiffs' Counsel shall not be
13 permitted to petition the Court for, or accept, any additional payments for attorneys' fees or costs.
14 Plaintiffs' Counsel will be issued an IRS Form 1099 by the Settlement Administrator for the
15 Attorneys' Fees and Litigation Costs. The Settlement shall not be contingent upon the Court
16 awarding Class Counsel any particular amount for attorneys' fees and costs. The Parties agree that
17 any reduction in the amount of Attorneys' Fees and Litigation Costs awarded by the Court is not a
18 basis to void the Agreement and Plaintiffs' Counsel has the right to appeal the Court's ruling
19 regarding the Attorneys' Fees and Litigation Costs. If Plaintiffs' Counsel appeals an adverse ruling
20 of the Court regarding its fee and cost application, the ruling of the appellate court (regardless of its
21 substance) shall not constitute a material alteration of a term of this Agreement. The Attorneys'
22 Fees and Litigation Costs shall be paid by the Settlement Administrator to Class Counsel no later
23 than ten (10) calendar days after the Effective Date. The Settlement Administrator may purchase
24 an annuity to utilize US treasuries and bonds or other attorney fee deferral vehicles for Class
25 Counsel.

26 The Settlement Administrator's payment of the Attorneys' Fees and Litigation Costs to
27 Class Counsel shall constitute full satisfaction of the obligation to pay any amounts to any person,
28 attorney, or law firm for attorneys' fees or costs in the Action incurred by any attorney on behalf of

1 the Named Plaintiff, and Class Members, and shall relieve Defendant, the Settlement
2 Administrator, and Defense Counsel of any other claims or liability to any other attorney or law
3 firm for any attorneys' fees or costs to which any of them may claim to be entitled on behalf of the
4 Named Plaintiffs and Class Members.

5 **c. Payment of Enhancement Awards to Named Plaintiffs**

6 Plaintiffs' Counsel may request that the Court approve, and Defendant will not oppose,
7 Enhancement Awards to the Named Plaintiffs in an amount not to exceed \$7,500.00 to Plaintiff
8 Saldana and \$5,000.00 to Plaintiff Johns) to be paid to the Named Plaintiffs for their time and
9 effort spent pursuing the Action. Defendant agrees not to oppose such an application, so long as it
10 is consistent with the provisions of this Agreement. The Settlement Administrator shall deliver any
11 Enhancement Awards to Named Plaintiffs within ten (10) calendar days after the Effective Date.
12 The Named Plaintiffs will also be entitled to receive Individual Settlement Payments and
13 Individual PAGA Payments, pursuant to this Agreement in addition to their Enhancement Awards.
14 The Settlement shall not be contingent upon the Court awarding Named Plaintiffs any particular
15 amount for the Enhancement Awards. Class Counsel and Named Plaintiffs shall have no right or
16 ability to nullify the Settlement in the event that the Court awards an amount less than the
17 Enhancement Awards described in this Agreement.

18 Because it is the intent of the Parties that the Enhancement Awards represent payment to
19 the Named Plaintiffs for their services to the Class Members, and not wages, the Settlement
20 Administrator will not withhold any taxes from the Enhancement Awards. The Enhancement
21 Awards will be reported on a Form 1099 to Named Plaintiffs. Although it is the contemplation of
22 the Parties that the Enhancement Awards do not represent wages, the Internal Revenue Service, the
23 California Franchise Tax Board, or some other taxing authority may take the position that the
24 Enhancement Awards constitute compensation for income tax and withholding purposes. Named
25 Plaintiffs agree to assume the responsibility of remitting to the Internal Revenue Service, the
26 California Franchise Tax Board, and any other relevant taxing authority the amounts required by
27 law, if any, to be withheld by Defendant from the Enhancement Awards paid under this
28 Agreement. In addition, Named Plaintiffs shall hold Defendant harmless and indemnify Defendant

for all taxes, interest, penalties, and costs, excluding attorneys' fees, incurred by Defendant by reason of any claims relating to the non-withholding of taxes from the Enhancement Awards. The Settlement Administrator will issue a Form 1099 to the Named Plaintiffs with regard to the Enhancement Award payments. The Settlement Administrator will provide a copy of this Form 1099 issued to counsel for Defendant.

d. Payment of Settlement Administration Costs

The Settlement Administration Costs shall be deducted from the Gross Settlement Fund and are not to exceed \$10,000. All disputes relating to the Settlement Administrator's performance of its duties will be referred to the Court, if necessary, which will have continuing jurisdiction over this Settlement until all payments and obligations contemplated by this Settlement have been fully carried out. The Settlement Administrator will remit to itself the Settlement Administration Costs within fifteen (15) calendar days of the Effective Date but no sooner than all other payments under this Agreement have been made.

e. Payment of Individual Settlement Payments to Settlement Class Members and Individual PAGA Payments to Aggrieved Employees

The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement Payments. The Parties agree that the Net Settlement Amount shall be divided between all Settlement Class Members based on the number of Workweeks allocated to each of them. The amount that each Settlement Class Member is entitled to receive is determined by multiplying Net Settlement Amount by a ratio that is determined by dividing a Settlement Class Member's Workweeks by the Total Workweeks, as expressed in the following formula:

$$\begin{array}{ccccc} \text{Individual} & & \text{Net} & & \text{Settlement Class Member's} \\ \text{Settlement} & = & \text{Settlement} & \times & \frac{\text{Workweeks}}{\text{Total Workweeks}} \\ \text{Payment} & & \text{Amount} & & \end{array}$$

It is the intent of the Parties that the Net Settlement Amount shall be sufficient to pay Settlement Class Members in accordance with the formula set forth above. Each Individual Settlement Payment will be allocated as one-third (1/3) to wages and two-thirds (2/3) to penalties and interest. The Settlement Administrator shall calculate, withhold, and remit to applicable governmental agencies sufficient amounts as may be owed for employees' share of taxes due on

1 the portion of the Individual Settlement Payment allocated to wages that will be reported on an IRS
2 Form W2 basis. These amounts shall be paid from the Net Settlement Amount. The Settlement
3 Administrator shall also report those portions of the Individual Settlement Payments allocated to
4 interest and penalties on an IRS Form 1099 basis as required by law.

5 The Settlement Administrator shall also calculate, receive from Defendant, and remit to the
6 applicable government agencies such amount as may be owed by Defendant as an employer for
7 payroll taxes on a maximum wage allocation of each Individual Settlement Payment that will be
8 reported on an IRS Form W2 basis. These employer payroll taxes allocated to the wage portion of
9 the Individual Settlement Payments shall be paid by Defendant in addition to the Gross Settlement
10 Fund.

11 The Parties agree that twenty-five percent of the PAGA Settlement Amount ("PAGA
12 Payment") (i.e., \$18,750) shall be used to fund Individual PAGA Payments. The Parties agree that
13 the PAGA Payment shall be divided between all Aggrieved Employees based on the number of Pay
14 Periods allocated to each of them. The amount that each Aggrieved Employees is entitled to receive
15 is determined by multiplying PAGA Payment by a ratio that is determined by dividing an Aggrieved
16 Employee's Pay Periods by the Total Pay Periods, as expressed in the following formula:

$$\begin{array}{ccccccc} \text{Individual} & & & \text{PAGA} & & & \text{Aggrieved Employee's} \\ \text{PAGA} & & & \text{Payment} & \times & & \text{Pay Periods} \\ \text{Payment} & = & & & & & \hline & & & & & & \text{Total Pay Periods} \end{array}$$

19 Each Individual PAGA Payment will be allocated as entirely as penalties and will be
20 reported on an IRS Form 1099 basis as required by law.

21 No later than ten (10) calendar days after the Court grants final approval of the Settlement,
22 Defendant will pay the Gross Settlement Fund to the Settlement Administrator, who shall segregate
23 and secure such funds in an interest-bearing account with all interest accruing for the benefit of
24 Defendant. No later than ten (10) calendar days after the Effective Date, the Settlement
25 Administrator shall prepare and mail the checks for the Individual Settlement Payments and
26 Individual PAGA Payments (which may be combined into one check when applicable), minus
27 applicable withholdings, to Settlement Class Members.
28

1 To the extent that an Individual Settlement Payment check or Individual PAGA Payment
2 check is (1) undeliverable, or (2) uncashed 180 days after the date listed on the check, the check
3 will be cancelled and associated funds shall be distributed to CASA Riverside County (Voices for
4 Children), a *cy pres* recipient pursuant to *Code of Civil Procedure* section 384.

5 **f. Payment to the LWDA**

6 No later than ten (10) calendar days after the Effective Date, the Settlement Administrator
7 will deliver to the LWDA, 75% of the PAGA Settlement Amount (the “LWDA Payment”) (i.e.,
8 \$56,250) as the LWDA’s share of the settlement of the PAGA claims, which the Parties believe in
9 good faith is a fair and reasonable apportionment.

10 **g. No Additional Contribution by Defendant**

11 Defendant’s monetary obligation under this Settlement and Agreement is limited to the
12 Gross Settlement Fund and the employer portion of payroll taxes. Defendant shall not be called
13 upon or required to contribute additional monies above the Gross Settlement Fund under any
14 circumstances whatsoever, except as to Defendant’s share of the employer payroll. All costs, fees,
15 and expenses arising out of or in connection with the performance of this Agreement shall be paid
16 from the Gross Settlement Fund, but shall not include attorneys’ fees incurred (if any) in enforcing
17 the Settlement Agreement caused by a breach of the Settlement Agreement by Defendant.

18 If, for whatever reason and however it may occur, this Agreement is canceled, rescinded,
19 terminated, voided, or nullified or the Settlement is barred by operation of law, or invalidated, or
20 ordered not to be carried out by a court of competent jurisdiction, Defendant shall cease to have
21 any obligation to pay any portion of the Gross Settlement Fund to anyone under the terms of this
22 Agreement, and all previous disbursements from the Gross Settlement Fund will immediately be
23 paid back to Defendant by the person or entity who received such disbursement. Any unpaid costs
24 already incurred by the Settlement Administrator shall be split by the Parties.

25 **h. No Claims Resulting from Payments**

26 No person shall have any claim of any kind whatsoever against any of the Parties, Defense
27 Counsel, Class Counsel, any Class Member, or the Settlement Administrator, based on the
28 distribution of payments made in accordance with this Agreement.

1 **i. No Effect on Employee Benefit Plans**

2 The payment to any Class Member as provided for in this Agreement (including, without
3 limitation, any Individual Settlement Payment, Individual PAGA Payment, or any Enhancement
4 Awards paid to Named Plaintiffs) is not and shall not be deemed to constitute an addition to, a
5 modification of, or a change in any previously credited hours of service, compensation and/or
6 wages under any collective bargaining agreement, employee benefit plan, employment policy, or
7 stock option plan of or sponsored by Defendant or any of its present or former parent corporations
8 or affiliates or any jointly trustee benefit plans. Any such payment to any Class Member shall not
9 form the basis for additional contributions to, additional benefits under, or any other additional
10 entitlements under any collective bargaining agreement, employee benefit plan, employment
11 policy, or stock option plan of or sponsored by Defendant or any of its present or former parent
12 corporations or affiliates or any jointly trustee benefit plans. Defendant and each of its present
13 and former parent corporations and affiliates retain the right to modify and/or amend the language
14 of their employee benefit plans, employment policies, and stock option plans, and to seek to have
15 modified and/or amended the language of any collective bargaining agreement, jointly trustee
16 benefit plans, to make clear that any amounts paid as a result of this Agreement are not
17 compensation or wages, or payments for “hours worked,” as defined by the applicable
18 agreement(s), plans and policies, and that no additional contributions or benefits are required by
19 reason of the Settlement and this Agreement.

20 **j. Notice of the Order and Judgment Granting Final Approval**

21 Notice of the Final Approval Order and Judgment shall be given to the Class via online
22 posting. The Settlement Administrator will post the Final Approval Order and Judgment on its
23 website for a period of sixty (60) calendar days.

24 **ARTICLE IV**

25 **LIMITATIONS ON USE OF THIS SETTLEMENT**

26 **Section 4.01: No Admission**

27 Defendant vigorously disputes the allegations in the Action. This Agreement is entered into
28 solely for the purpose of compromising claims that are highly disputed by the Parties. Nothing in

1 this Agreement is intended to be or will be construed as an admission of liability or wrongdoing by
2 Defendant and/or any of the Released Parties.

3 **Section 4.02: Non-Evidentiary Use**

4 Whether or not the Effective Date occurs, neither this Agreement nor any of its terms will
5 be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for
6 any purpose adverse to Defendant or any of the Released Parties, including, but not limited to,
7 evidence of a presumption, concession, indication, or admission by Defendant or any of the
8 Released Parties of any liability, fault, wrongdoing, omission, concession, or damage;
9 (b) disclosed, referred to, or offered in evidence against any of the Defendant or Released Parties in
10 any further proceeding in the Action, or any other civil, criminal, or administrative action or
11 proceeding except for the purposes of effectuating the Settlement pursuant to this Agreement or for
12 Defendant to establish that a Class Member has resolved any of his/her claims released through this
13 Agreement, (c) but may be used as evidence in any subsequent action for breach or enforcement of
14 this Agreement.

15 **Section 4.03: Nullification**

16 The Parties have agreed to the certification of the Class encompassing all causes of action
17 pled in the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for
18 any reason fail to certify the Class for settlement, or (b) the Court should for any reason fail to
19 approve this Settlement in the form agreed to by the Parties, or (c) the Court should for any reason
20 fail to enter the Final Order, or (d) the Final Order is reversed, modified, or declared or rendered
21 void, or (e) the Court should for any reason fail to dispose of the Action in its entirety, with the
22 exception of the Court's retention of exclusive and continuing jurisdiction of this Action over all
23 Parties and Class Members to interpret and enforce the terms, conditions, and obligations of the
24 Settlement, then (i) this Agreement shall be considered null and void; (ii) neither this Agreement
25 nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all Parties to
26 this Agreement shall stand in the same position, without prejudice, as they were at the time
27 immediately prior to the execution of the Settlement Agreement and if the Settlement Agreement
28 had been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing

1 to stipulate to class certification of all causes of action pled in the Action as part of the Settlement
2 for settlement purposes only will not have any bearing whatsoever on the remainder of the
3 litigation of the Action.

4 Invalidation of any material portion of this Agreement shall invalidate this Agreement in its
5 entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall
6 remain in full force and effect.

7 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the
8 Gross Settlement Fund shall not be distributed pending the completion and results of the appeal.

9 **ARTICLE V**

10 **RELEASES**

11 **Section 5.01: Release of Claims As To All Class Members.**

12 All Settlement Class Members, including the Named Plaintiffs (i.e., Class Members who do
13 not timely opt out of the Settlement as described in Section 3.04(b)) shall be bound by this
14 Agreement and shall be deemed to have fully and finally released all claims that were set forth, or
15 could have been set forth based on the facts alleged in the Operative Complaint.

16 Upon the Effective Date, and except as to such rights or claims as may be created by this
17 Agreement, the Settlement Class will be deemed to have, comprised of each member of the Class
18 who has not submitted a valid Opt Out Request, fully and finally release and discharge Defendant
19 and each of its officers, directors, employees, and agents (collectively, the “**Released Parties**”),
20 from any and all applicable state law wage-and-hour claims, rights, demands, liabilities, and causes
21 of action of every nature and description, arising during the Class Period based on the facts alleged
22 in the Operative Complaint, including without limitation, statutory, constitutional, contractual or
23 common law claims for wages, damages, unpaid costs, civil or statutory penalties, liquidated
24 damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief,
25 based on the following categories of allegations: unpaid overtime, unpaid meal period premiums,
26 unpaid rest break premiums, unpaid minimum wages, final wages not timely paid, wages not
27 timely paid during employment, non-compliant wage statements, failure to keep requisite payroll
28 records, unreimbursed business expenses, including but not limited to violations of and claims

arising under California law, *Labor Code* sections 201-204, 206, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 256, 510, 512, 551, 552, 558, 558.1, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197-1198, 1198.5, 1199, 2751, 2698 *et seq.*, 2800, 2802, 2810.5, 6401, 6403, and claims for civil penalties under PAGA pursuant to or based on these sections; the applicable Industrial Welfare Commission Wage Orders; Cal. Code Regs. Title 8, § 11070; and the Business & Professions Code §17200, *et seq.* as it relates to the underlying California Labor Code claims referenced above, interest, attorneys' fees and costs, including as permissible under California Code of Civil Procedure §1021.5 (collectively, "Released Class Claims"). The Class Members' Released Class Claims include claims meeting the above definition under any and all applicable California laws, statutes, regulations, and Wage Orders.

The Released Class Claims which arise under PAGA are referred to as the "Released PAGA Claims." Upon the Effective Date, all Aggrieved Employees, regardless of whether they submitted a timely and valid Opt Out Request, will be deemed to have fully and finally released and discharged the Released Parties from the Released PAGA Claims which arose during the PAGA Period.

It is agreed that because the Class Members are so numerous, it is impossible or impractical to have each Class Member execute this Agreement. The Class Notice will advise all Class Members of the binding nature of the releases. Excepting only the Class Members who timely submit a valid Opt-Out Request, the Class Notice shall have the same force and effect as if this Settlement and Agreement were executed by each Settlement Class Member with regard to the claims that he or she is releasing pursuant to the Settlement and Agreement.

Section 5.02: General Release by Named Plaintiffs.

Plaintiffs Jose Saldana and Thomas Johns agree to release all claims known or unknown, accrued or unaccrued, they have or may have against Defendant and the Released Parties, including execution of a California *Civil Code* section 1542 release and waiver.

In consideration of the monetary sum provided to Plaintiffs by Defendant, subject to Court approval, the Named Plaintiffs fully release and forever discharge the Released Parties from any and all actions, causes of action, claims, charges, complaints, liabilities, obligations, promises,

1 agreements, controversies, damages, actions, suits, rights, demands, liens, costs, losses, debts,
2 penalties, fines, wages, liquidated damages, restitutionary amounts, attorneys' fees and costs,
3 interest, punitive damages and expenses (including, without limitation, back wages, penalties,
4 liquidated damages, and attorneys' fees and costs actually incurred) or liabilities of any kind which
5 have been or could have been asserted against the Released Parties arising out of or relating to
6 Plaintiffs' employment with Defendant, and/or any other occurrence taking place on or before the
7 effective date of this Agreement, known or unknown, suspected or unsuspected, including but not
8 limited to claims arising out of, based upon, or relating to Plaintiffs' employment with the
9 Defendant, or the remuneration for such employment, and the matters referred to herein, whether or
10 not known or suspected to exist, and whether or not specifically or particularly described herein.
11 Without limiting the generality of the foregoing, Plaintiffs expressly release all claims or rights that
12 exist at the time of the execution of this Agreement arising out of alleged violations of any
13 contracts, express or implied (including but not limited to any contract of employment); any
14 contract or covenant of good faith or fair dealing (express or implied); any tort, including, without
15 limitation, negligence, fraud, misrepresentation under California *Labor Code* § 970, negligent
16 infliction of emotional distress, intentional infliction of emotional distress, slander and defamation;
17 wrongful or constructive termination; any "retaliation" claims; any claims relating to any breach of
18 public policy; any legal restrictions on Defendant's right to discharge employees or refuse to hire
19 applicants; and any federal, state, or other governmental statute, regulation, order or ordinance,
20 including, without limitation: (1) Title VII of the Civil Rights Act of 1964 (race, color, religion,
21 sex, and national origin discrimination or harassment, including retaliation for reporting
22 discrimination or harassment); (2) 42 U.S.C. § 1981 (discrimination); (3) sections 503 and 504 of
23 the Rehabilitation Act of 1973 (handicap discrimination); (4) Equal Pay Act, 29 U.S.C. § 209(4)(1)
24 (equal pay); (5) Americans with Disabilities Act, 42 U.S.C. § 12100 *et seq.* (disability
25 discrimination); (6) Family and Medical Leave Act, 29 U.S.C. § 2601 *et seq.* (family/medical
26 leave); (7) California Fair Employment and Housing Act, Cal. Gov't Code § 12900 *et seq.*
27 (discrimination or harassment in employment and/or housing, including discrimination or
28 harassment based on race, religious creed, color, national origin, ancestry, disability, marital status,

1 sex (including pregnancy), sexual orientation, or age, including, without limitation, retaliation for
2 reporting discrimination or harassment); (8) California Family Rights Act, Cal. Gov't Code
3 § 12945.1 *et seq.* (family/medical leave); (9) California Labor Code, including but not limited to
4 California Labor Code § 2698 *et seq.* (PAGA), or any Industrial Welfare Commission Wage Order;
5 (10) the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*; (11) Executive Order 11246 (race,
6 color, religion, sex, and national origin discrimination or harassment); (12) Executive Order 11141
7 (age discrimination); (13) California Business and Professions Code Section 17200, *et. seq.*, and
8 (14) Employee Retirement Income Security Act, 29 U.S.C. § 1000 *et seq.* (employee benefits).

9 **Section 5.03: Named Plaintiffs' Release of Unknown Claims**

10 Named Plaintiffs expressly waive any right or claim of right to assert hereafter that any
11 claim, demand, obligation, and/or cause of action, existing at the time of the execution of this
12 Agreement, have, through ignorance, oversight, or error, been omitted from the terms of this
13 Agreement. Named Plaintiffs agree there is a risk that each and every injury they may have
14 suffered by reason of the Released Parties' relationship with them might not now be known, and
15 there is further risk that said injuries, whether known or unknown at the date of this Agreement,
16 might possibly become progressively worse, and that as a result thereof further damages may be
17 sustained by them. Nevertheless, Named Plaintiffs desire to forever and fully release and discharge
18 the Released Parties, and each of them, and understand that by the execution of this Agreement no
19 further claims for any such injuries that existed at the time of the execution of this Agreement may
20 ever be asserted by them. Named Plaintiffs expressly waive and relinquish all rights and benefits
21 afforded by section 1542 of the *Civil Code* of the State of California and do so understanding and
22 acknowledging the significance of such specific waiver of section 1542. Specifically, Named
23 Plaintiffs waive their rights under Section 1542 of the Civil Code, which states:

24 **A general release does not extend to claims that the creditor or**
25 **releasing party does not know or suspect to exist in his or her**
26 **favor at the time of executing the release and that, if known by**
him or her, would have materially affected his or her settlement
with the debtor or released party.

27 Named Plaintiffs make this waiver with full knowledge of their rights and with the specific
28 intent to release all known and unknown claims arising on or before the effective date of this

1 Agreement, and therefore specifically waive the provisions of any statute in any state of the United
2 States which prevents release of unknown claims. Thus, subject to and in accordance with this
3 Agreement, even if Named Plaintiffs may hereafter discover facts in addition to or different from
4 those they now know or believes to be true, Named Plaintiffs, upon the Effective Date, shall be
5 deemed to have fully, finally, and forever settled and released any and all claims against the
6 Released Parties that were alleged or could have been alleged in the Action, as well as any other
7 claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, that
8 now exist, upon any theory of law or equity, including, without limitation, conduct that is
9 negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard
10 to the subsequent discovery or existence of such different or additional facts.

11 **Section 5.05: No Additional Attorneys' Fees or Costs**

12 Except for the Attorneys' Fees and Litigation Costs set forth in this Agreement, the Parties
13 agree to bear their own attorneys' fees and costs related to this Action.

14 **ARTICLE VI**

15 **MISCELLANEOUS**

16 **Section 6.01: Amendments, Modification or Rescission**

17 The terms and provisions of this Agreement may be amended or modified only by an
18 express written agreement that is signed by all the Parties (or their successors-in-interest) and their
19 counsel. In the event that the Court requires that certain changes be made to this Agreement or to
20 the Notice Packet as a condition of preliminary approval, then a signed stipulation by counsel for
21 the Parties shall be sufficient to amend or modify this Agreement or the Notice Packet without
22 additional signatures from the Named Plaintiffs or Defendant. In the event any party is entitled to
23 and elects to revoke or rescind this Agreement, such revocation or rescission must be in writing.

24 **Section 6.02: Additional Representations and Warranties**

25 This Agreement is contingent upon Defendant paying the Gross Settlement Fund for a
26 complete resolution of the claims at issue in the Action, including, without limitation, attorneys'
27 fees and costs, but excluding any employer's payroll taxes or the Settlement Administrator's fees.
28

1 **Section 6.03: Assignment**

2 None of the rights, commitments, or obligations recognized under this Agreement may be
3 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express
4 written consent of each other Party and its or their respective counsel. The representations,
5 warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the
6 Parties, the Class Members, and the Released Parties, and shall not be construed to confer any right
7 or to avail any remedy to any other person or entity.

8 **Section 6.04: Entire Agreement**

9 This Agreement, including, without limitation, the Exhibit referred to herein, which form an
10 integral part hereof, contains the entire understanding of the Parties hereto with respect to the
11 subject matter contained herein. In case of any conflict between text contained in Articles I
12 through VI of this Agreement and text contained in the Exhibits to this Agreement, the former (*i.e.*,
13 Articles I through VI) shall be controlling. There are no restrictions, promises, representations,
14 warranties, covenants, or undertakings governing the subject matter of this Agreement other than
15 those expressly set forth or referred to herein. Upon its full execution, this Agreement supersedes
16 all prior agreements and understandings among the Parties hereto with respect to the Settlement,
17 including, without limitation, correspondence between Class Counsel and Defense Counsel, and
18 drafts of prior agreements or proposals.

19 **Section 6.05: Waiver of Compliance**

20 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
21 obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the
22 extent permitted under applicable law, by the Party or Parties and their respective counsel hereto
23 entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to
24 insist upon strict compliance with any representation, warranty, covenant, agreement, or condition
25 shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

26 **Section 6.06: Counterparts and Fax/PDF Signatures**

27 This Agreement, and any amendments hereto, may be executed in any number of
28 counterparts and any Party and/or their respective counsel hereto may execute any such

1 counterpart, each of which when executed and delivered shall be deemed to be an original and all
2 of which counterparts taken together shall constitute one instrument. A fax, electronic, DocuSign
3 or PDF signature on this Agreement shall be as valid as an original signature.

4 **Section 6.07: Attorneys' Fees and Litigation Costs**

5 No Class Member or Class Counsel or any other attorney acting for any Class Member may
6 recover or seek to recover any amounts for fees, costs, or disbursements from the Defendant and/or
7 the Released Parties or the Gross Settlement Fund except as expressly provided herein.

8 **Section 6.08: Meet and Confer Regarding Disputes**

9 If any dispute arises among the Parties or their respective counsel regarding the
10 implementation or interpretation of this Agreement, Class Counsel, and Defendant' counsel shall
11 meet and confer in an attempt to resolve such dispute prior to submitting it to the Court.

12 **Section 6.09: Administration Costs**

13 The Parties agree to cooperate in the Settlement administration process and to make all
14 reasonable efforts to control and minimize the costs and expenses incurred in administration of the
15 Settlement.

16 **Section 6.10: Circular 230 Disclaimer**

17 EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE
18 "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER
19 THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES
20 AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN
21 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR
22 THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR
23 SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE
24 CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF
25 UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 C.F.R. PART 10,
26 AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
27 EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX
28 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON
THE RECOMMENDATION OF ANY OTHER PARTY, OR ANY ATTORNEY OR
ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON
ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO
ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON
THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY
OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE
CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX

1 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY
2 BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX
3 TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY
TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

4 **Section 6.11: Privacy of Documents and Information**

5 The Named Plaintiffs and Class Counsel agree that none of the documents and information
6 provided to them by Defendant shall be used for any purpose other than prosecution of this Action.

7 **Section 6.12: No Admission by the Parties**

8 Defendant and the Released Parties deny any and all claims alleged in this Action and deny
9 all wrongdoing whatsoever. The Parties have stipulated to class certification as set forth herein for
10 settlement purposes only. This Agreement is not a concession or admission, and shall not be used
11 against Defendant or any of the Released Parties as an admission or indication with respect to any
12 claim of any fault, concession, or omission by Defendant or any of the Released Parties. Whether
13 the Settlement is finally approved, the Settlement, any document, statement, proceeding or conduct
14 related to this Agreement, and/or any reports or accounts of this Agreement, shall not in any event
15 be:

16 a. construed as, offered, or admitted in evidence as, received as, or deemed to be
17 evidence for any purpose adverse to the Released Parties, including, but not limited to, evidence of
18 a presumption, concession, indication, or admission by any of the Released Parties of any liability,
19 fault, wrongdoing, omission, concession, or damage; or,

20 b. disclosed, referred to, or offered or received in evidence against any of the Released
21 Parties, in any further proceeding in the Action, or any other civil, criminal, or administrative
22 action or proceeding except for purposes of settling this Action pursuant to this Agreement.

23 **Section 6.13: Exhibit and Headings**

24 The terms of this Agreement include the terms set forth in any attached Exhibit, which are
25 incorporated by this reference as though fully set forth in this Agreement. Any Exhibit to this
26 Agreement is an integral part of the Settlement. The descriptive headings of any paragraphs or
27 sections of this Agreement are inserted for convenience of reference only and do not constitute a
28 part of this Agreement.

1 **Section 6.14: Interim Stay of Proceedings**

2 The Parties agree that all orders and deadlines in the litigation are stayed, except such
3 proceedings necessary to implement and complete the Settlement. In the event the Settlement is not
4 approved by the Court, the Parties shall return to the current status of the litigation.

5 **Section 6.16: Authorization to Enter Into Settlement Agreement**

6 Counsel for all Parties warrant and represent they are expressly authorized by the Parties
7 whom they represent to negotiate this Agreement and to take all appropriate action required or
8 permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to
9 execute any other documents required to effectuate the terms of this Agreement. The Parties and
10 their counsel will cooperate with each other and use their best efforts to effect the implementation
11 of the Settlement. In the event the Parties are unable to reach agreement on the form or content of
12 any document needed to implement the Settlement, or on any supplemental provisions that may
13 become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of
14 the Court to resolve such disagreement. The person signing this Agreement on behalf of Defendant
15 represents and warrants that he/she is authorized to sign this Agreement on behalf of Defendant.

16 **Section 6.17: Binding on Successors and Assigns**

17 This Agreement shall be binding upon, and inure to the benefit of, the Parties, the Released
18 Parties, and their respective successors or assigns.

19 **Section 6.18: California Law Governs**

20 All terms of this Agreement and the attached Exhibit A shall be governed by and
21 interpreted according to the laws of the State of California and the procedures of the Court.

22 **Section 6.19: This Settlement is Fair, Adequate, and Reasonable**

23 The Parties believe this Settlement is a fair, adequate, and reasonable settlement of this
24 Action and have arrived at this Settlement in arm's length negotiations, taking into account all
25 relevant factors, present and potential. This Settlement was reached after extensive negotiations,
26 including an arms' length negotiation at mediation before respected mediator Jeffrey Krivis, Esq.
27 on December 11, 2019 and February 8, 2020.
28

1 **Section 6.20: Cooperation and Drafting**

2 Each of the parties has cooperated in the drafting and preparation of this Agreement.
3 Hence, in any construction made to this Agreement, the same shall not be construed against any of
4 the Parties.

5 **Section 6.21: Invalidity of Any Provision**

6 Before declaring any provision of this Agreement invalid, the Court shall first attempt to
7 construe the provisions valid to the fullest extent possible consistent with applicable precedents so
8 as to define all provisions of this Agreement valid and enforceable. The provisions of this
9 Agreement are severable. To the extent any provision is deemed unlawful, to the extent possible,
10 such provision shall be severed and the remainder of the Agreement shall remain valid and
11 enforceable.

12 **Section 6.22: Defense**

13 To the extent permitted by law, this Agreement may be pleaded as a full and complete
14 defense to, and may be used as the basis for an injunction against, any action, suit, or other
15 proceedings that may be instituted, prosecuted, or attempted with respect to the Released Class
16 Claims and/or Released PAGA Claims in breach of or contrary to this Settlement.

17 **Section 6.23: Named Plaintiffs' Waiver of Right to be Excluded**

18 The Named Plaintiffs agree to sign this Agreement and, by signing this Agreement, they
19 agree: (1) to be bound by its terms, (2) not to request to be excluded from the Class Settlement, and
20 (3) represent that they have no objection to any of the terms of this Agreement. Non-compliance
21 by the Named Plaintiffs with this paragraph shall be void and of no force or effect. Any such
22 request for exclusion or objection shall therefore be void and of no force or effect.

23 **Section 6.24: Public Statements**

24 Named Plaintiffs, Defendant, Defense Counsel, and Class Counsel agree to limit public
25 comment on this Settlement and Agreement, the Action, and the claims asserted in the Action, to
26 stating that the matter has been resolved to the satisfaction of the Parties. Named Plaintiffs,
27 Defendant, Defense Counsel, and Class Counsel shall not initiate public comment on this
28 Settlement and Agreement, the Action and the claims asserted in the Action with the exception that

1 Class Counsel shall not be precluded from communicating with Class Members, the LWDA, or
2 other entities as required to see preliminary and final approval of this Settlement. Defendant and/or
3 the Released Parties can communicate the existence of and/or use the Agreement as a defense to
4 any claim(s) covered by the releases in this Agreement.

5 **Section 6.25: Enforcement**

6 The Parties agree this Agreement shall be enforceable by the Court and the Court shall
7 retain exclusive and continuing jurisdiction of this Action over all Parties and Class Members to
8 interpret and enforce the terms, conditions, and obligations of the Settlement. The Named
9 Plaintiffs, Class Members, and Defendant hereby submit to the personal and exclusive jurisdiction
10 of the Court for purposes of interpreting, implementing and enforcing the Settlement embodied in
11 this Agreement and all orders and judgments entered in connection therewith. The prevailing party
12 in any action or proceeding to enforce this Agreement or otherwise concerning the terms of the
13 Settlement shall be awarded his, her, or its costs and attorneys' fees.

1 IN WITNESS WHEREOF, the parties hereto
2 knowingly and voluntarily executed this Joint
3 Stipulation of Settlement and Release between
4 Plaintiffs and Defendant as of the date(s) set
5 forth below:

6 March 02, 2021

7 March __, 2021

By: 
Jose Saldana
Named Plaintiff

8 March __, 2021

9 By: _____
10 Thomas Johns
11 Named Plaintiff

12 March __, 2021

13 By: _____
14 Mark Carter, Founder and Chairman
15 International E-Z Up, Inc.

16 **Agreed as to form:**

17 March ³__, 2021

18 Lawyers for Justice, PC

19 By: 
20 Edwin Aiwasian
21 Attorney for Plaintiff

22 March __, 2021

23 CDF Labor Law LLP

24 By: _____
25 Brent M. Giddens
26 Ashley Halberda
27 Brian E. Cole II
28 Attorneys for Defendant
International E-Z Up, Inc.

1 IN WITNESS WHEREOF, the parties hereto
2 knowingly and voluntarily executed this Joint
3 Stipulation of Settlement and Release between
4 Plaintiffs and Defendant as of the date(s) set
5 forth below:

6 March __, 2021

By: _____
Jose Saldana
Named Plaintiff

7
8 March __, 2021

9 By: _____
10 Thomas Johns
11 Named Plaintiff

12 March 3, 2021

13 By: 
14 Mark Carter, Founder and Chairman
15 International E-Z Up, Inc.

16 **Agreed as to form:**

17 March 3, 2021

Lawyers for Justice, PC

18 By: 
19 Edwin Aiwasian
20 Attorney for Plaintiff

21 March 3, 2021

CDF Labor Law LLP

22 By: 
23 Brent M. Giddens
24 Ashley Halberda
25 Brian E. Cole II
26 Attorneys for Defendant
27 International E-Z Up, Inc.
28

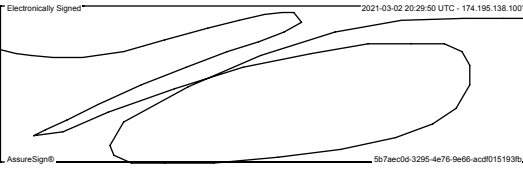
1 IN WITNESS WHEREOF, the parties hereto
2 knowingly and voluntarily executed this Joint
3 Stipulation of Settlement and Release between
4 Plaintiffs and Defendant as of the date(s) set
5 forth below:

6 March __, 2021

By: _____
Jose Saldana
Named Plaintiff

7 March 02, 2021

8 March __, 2021

By:  _____
Thomas Johns
Named Plaintiff

Electronically Signed: 2021-03-02 20:29:50 UTC - 174.195.138.100
AssureSign® 5b7aec06-3295-4a76-9e96-arc015193b_

9 March __, 2021

10 By: _____
11 Mark Carter, Founder and Chairman
12 International E-Z Up, Inc.

13 **Agreed as to form:**

14 March __, 2021

15 Lawyers for Justice, PC

16 By: _____
17 Edwin Aiwarzian
18 Attorney for Plaintiff

19 March __, 2021

20 CDF Labor Law LLP

21 By: _____
22 Brent M. Giddens
23 Ashley Halberda
24 Brian E. Cole II
25 Attorneys for Defendant
26 International E-Z Up, Inc.

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

Jose Saldana, et al. v. International E-Z Up, Inc.
Superior Court of California for the County of Riverside, Case No. RIC1902873

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendant's records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment.

This Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the settlement, object to the settlement, and/or dispute the number of Workweeks that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class action settlement has been reached between Plaintiffs Jose Saldana and Thomas Johns ("Plaintiffs") and Defendant International E-Z Up Inc. ("Defendant") (Plaintiffs and Defendant together are referred to as the "Parties") in the case entitled *Jose Saldana, et al. v. International E-Z Up Inc.*, Riverside County Superior Court, Case No. RIC1902873 (the "Action"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Class" means all hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the Class Period.

"Class Member" means a member of the Class.

"Class Period" means the time period from May 10, 2015 until May 8, 2020 or [date of Preliminary Approval], whichever is sooner.

"Aggrieved Employees" means Plaintiffs and Class Members who worked for Defendant within the PAGA Period.

"PAGA Period" means the time period from May 10, 2018 until May 8, 2020 or [date of Preliminary Approval], whichever is sooner.

II. BACKGROUND OF THE ACTION

On May 10, 2019, Plaintiff Saldana started the Action by filing the Class Action Complaint for Damages in the Riverside County Superior Court. On [FAC Date], Plaintiffs filed the First Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act of 2004, California Labor Code sections 2698, Et Seq. ("First Amended Complaint"). Plaintiffs claim that Defendant failed to properly pay overtime wages, provide compliant meal and rest breaks and associated premiums, properly pay minimum wages, timely pay wages upon termination and during employment and associated penalties, provide accurate wage statements, keep required payroll records, and reimburse business expenses, and thereby engaged in unfair business practices and asserts that Defendant owes penalties under the California Private Attorneys General Act of 2004, California Labor Code sections 2698, Et Seq. ("PAGA"). Plaintiffs seek, among other things, recovery of unpaid wages and meal and rest period premiums, recovery of loss, damage, or injury, penalties, interest, and attorneys' fees and costs.

Defendant denies all of the Plaintiffs' claims in the Action and denies that it violated any law. Defendant asserts that at all times it has complied with federal, state, and local laws.

The Parties participated in a full-day mediation session (a process where parties try to resolve their dispute with a third-party neutral mediator) with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into the Third Amended Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”).

On [date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed Simpluris, Inc. as the administrator of the Settlement (“Settlement Administrator”), Plaintiffs as representatives of the Class (“Class Representatives”), and the following attorneys as counsel for the Class (“Class Counsel”):

Edwin Aiwarzian

Arby Aiwarzian

Joanna Ghosh

Lawyers for Justice, PC

410 West Arden Avenue, Suite 203

Glendale, California 91203

Telephone: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for International E-Z Up Inc. are:

Brent M. Giddens

Ashley A. Halberda

Brian E. Cole II

CDF Labor Law LLP

18300 Von Karman Ave., Suite 800

Irvine, California 92612

Telephone: (949) 622-1661

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be taken as an admission by Defendant that the claims in the Action have merit or that Defendant owes anything to Plaintiffs or to Class Members. Plaintiffs and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continuing the lawsuit, the Settlement is fair, reasonable, and adequate, and is in the best interests of Class Members. The Court has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the Final Approval Hearing. The Court has made no ruling on the merits of the Class Members’ claims and has determined only that a class action is the best option to manage the Class for settlement purposes. After Defendant provided relevant information to Class Counsel, the Settlement was reached after mediation and arm’s length negotiations between the Parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

If you are still employed by Defendant, your decision about whether to participate in the Settlement will not affect your employment. California law and Defendant’s policy strictly prohibit unlawful retaliation. Defendant will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of his/her decision to either participate or not participate in the Settlement.

III. SUMMARY OF THE SETTLEMENT

A. Settlement Formula

The total gross settlement amount is Nine Hundred and Fifty Thousand Dollars (\$950,000) (the “Gross Settlement Fund”). The portion of the Gross Settlement Fund that is available for payment to Class Members is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Gross Settlement Fund minus the following payments which are subject to approval by the Court: (1) Attorneys’ Fees in an amount not to exceed thirty-five percent (35%) of the Gross Settlement Fund (that is, Three Hundred Thirty-Two Five Hundred Dollars (\$332,500)); (2) Litigation Costs, consisting of reimbursement of actual costs and expenses in an amount not to exceed Forty Thousand Dollars (\$40,000) to Class Counsel; (3) Enhancement Awards in an amount not to exceed Seven Thousand Five Hundred Dollars (\$7,500) to Plaintiff Saldana

and in an amount not to exceed Five Thousand Dollars (\$5,000) to Plaintiff Johns for their services in the Action; (4) PAGA Settlement Amount in the amount of Seventy-Five Thousand Dollars (\$75,000) allocated toward penalties under PAGA, of which seventy-five percent (75%), or Fifty-Six Thousand Two Hundred Fifty Dollars (\$56,250), will be paid to the California Labor and Workforce Development Agency and twenty-five percent (25%), or Eighteen Thousand Seven Hundred Fifty Thousand Dollars (\$18,750), will be distributed to Class Members (“PAGA Payment”); and (5) Settlement Administration Costs in an amount not to exceed Ten Thousand Dollars (\$10,000) to the Settlement Administrator.

B. Individual Settlement Payments and Individual PAGA Payments

Each Class Member is eligible to receive payment under the Settlement of his or her share of the Net Settlement Amount (“Individual Settlement Payment”) based on the number of weeks during the Class Period commencing on Sunday and ending on the following Saturday in which a Class Member worked one or more days. (“Workweeks”).

The Settlement Administrator multiplied the Net Settlement Amount by a fraction that has as its numerator the number of Workweeks an individual Class Member has worked and as its denominator the total number of Workweeks of all Class Members (“Total Workweeks”) (which is listed in Section IV.A below).

Based on the Net Settlement Amount, the range of estimated Individual Settlement Payments to Class Members is [lowest estimated share to be provided by Settlement Administrator] (\$_____) to [highest estimated share to be provided by Settlement Administrator] (\$_____). The estimated average Individual Settlement Payment is [average estimated share to be provided by Settlement Administrator] (\$_____).

Each Individual Settlement Payment will be allocated one-third (33.33%) as wages which will be reported on an IRS Form W-2 and two-thirds (66.66%) as penalties and interest, which will be reported on an IRS Form 1099. Class Members who do not request exclusion from the Settlement as set forth below in Section IV.B (“Settlement Class Members”) will be issued payment of their Individual Settlement Payment, after reduction for the employee’s share of payroll taxes, contributions, and withholdings with respect to the wages portion of the Individual Settlement Payment, resulting in a net payment to the Settlement Class Member.

Each Aggrieved Employee will also receive a share of the PAGA Payment (“Individual PAGA Payment”), regardless of whether he or she submits a timely and valid Opt Out Request. The Individual PAGA Payment is a pro rata share of the PAGA Payment based on the number of pay periods during the PAGA Period during which an Aggrieved Employee worked for Defendant as an hourly-paid or non-exempt employee in California. The Settlement Administrator has multiplied the PAGA Payment of Eighteen Thousand Seven Hundred Fifty Thousand Dollars (\$18,750) by a fraction that has as its numerator the Aggrieved Employee’s Pay Periods and as the denominator the total Pay Periods of all Aggrieved Employees. (which is listed in Section IV.A below). Individual PAGA Payments will be allocated one hundred percent (100%) as penalties. Thus, the Individual PAGA Payments will be paid without any withholding amount and reported on an IRS Form 1099.

The range of estimated Individual PAGA Payments to Aggrieved Employees is [lowest estimated payment to be provided by Settlement Administrator] (\$_____) to [highest estimated payment to be provided by Settlement Administrator] (\$_____). The estimated average Individual PAGA Payment is [average estimated payment to be provided by Settlement Administrator] (\$_____).

If the Court grants final approval of the Settlement, Individual PAGA Payments and Individual Settlement Payments will be mailed to Settlement Class Members and Aggrieved Employees, respectively, at the address that is on file with the Settlement Administrator. For Settlement Class Members, the Settlement Administrator may include the Individual PAGA Payment in the same check as the Individual Settlement Payment. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

C. Released Claims

Upon the Effective Date, Plaintiffs and all Class Members who have not submitted a valid and timely Opt Out Request (that

is, Settlement Class Members) will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims. Upon the Effective Date, all Aggrieved Employees, regardless of whether they have opted out of the Class Settlement, will be deemed to have fully and finally released and discharged the Released Parties from the Released PAGA Claims.

“Released Class Claims” means any and all applicable state law wage-and-hour claims, rights, demands, liabilities, and causes of action of every nature and description, arising during the Class Period based on the facts alleged in the Operative Complaint, including without limitation, statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs, civil or statutory penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief, based on the following categories of allegations: unpaid overtime, unpaid meal period premiums, unpaid rest break premiums, unpaid minimum wages, final wages not timely paid, wages not timely paid during employment, non-compliant wage statements, failure to keep requisite payroll records, unreimbursed business expenses, including but not limited to violations of and claims arising under California law, *Labor Code* sections 201-204, 206, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 256, 510, 512, 551, 552, 558, 558.1, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197-1198, 1198.5, 1199, 2751, 2698 *et seq.*, 2800, 2802, 2810.5, 6401, 6403, and claims for civil penalties under PAGA pursuant to or based on these sections; the applicable Industrial Welfare Commission Wage Orders; Cal. Code Regs. Title 8, § 11070; and the Business & Professions Code §17200, *et seq.* as it relates to the underlying California Labor Code claims referenced above, interest, attorneys’ fees and costs, including as permissible under California Code of Civil Procedure §1021.5.

“Released PAGA Claims” means the Released Class Claims which arise under PAGA during the PAGA Period.

“Released Parties” means Defendant and its officers, directors, employees, or agents.

D. Attorneys’ Fees and Costs to Class Counsel

Class Counsel will seek attorneys’ fees in an amount up to thirty-five percent (35%) of the Gross Settlement Fund (that is, up to Three Hundred Thirty-Two Thousand Five Hundred Dollars (\$332,500) and reimbursement of actual costs and expenses in an amount up to Forty Thousand Dollars (\$40,000) (collectively, “Attorneys’ Fees and Costs”). Subject to approval by the Court, the Attorneys’ Fees and Costs will be paid to Class Counsel from the Gross Settlement Fund. Class Counsel has been prosecuting the Action on behalf of Plaintiffs and Class Members on a contingency fee basis (that is, without being paid any money to date) and has been paying all costs and expenses of the lawsuit.

E. Enhancement Payment to Plaintiffs

Plaintiffs will seek an amount up to Seven Thousand Five Hundred Dollars (\$7,500) to Plaintiff Saldana and up to Five Thousand Dollars (\$5,000) to Plaintiff Johns (“Enhancement Awards”), in recognition of their services in connection with the Action. Subject to approval by the Court, the Enhancement Awards will be paid from the Gross Settlement Fund and, if awarded, will be paid to Plaintiffs in addition to their Individual PAGA Payment and Individual Settlement Payments that they are entitled to under the Settlement.

F. Settlement Administration Costs to the Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Ten Thousand Dollars (\$10,000) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Opt-Out Requests, Objections, and disputes of Workweeks, calculating and distributing payments and tax forms under the Settlement, and other activities required to administer the Settlement. Subject to approval by the Court, the Settlement Administration Costs will be paid to the Settlement Administrator from the Gross Settlement Fund.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

If you are a Class Member, **you do not need to take any action to receive an Individual PAGA Payment and Individual Settlement Payment**, but you have the opportunity to request exclusion from the Class Settlement (i.e., the portion of the Settlement as it pertains to the class action claims) (in which case you will not receive an Individual Settlement Payment,

but you will still receive an Individual PAGA Payment, if eligible), object to the Class Settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully below.

A. Participate in the Settlement

You are eligible to participate in the Settlement. According to the Defendant's records:

From May 10, 2015 through May 8, 2020, you were employed by Defendant as an hourly-paid or non-exempt employee within the State of California for [REDACTED] Workweeks.

From May 10, 2018 through May 8, 2020, you were employed by Defendant as an hourly-paid or non-exempt employee within the State of California for [REDACTED] Workweeks.

As explained above in Section III.B, your estimated Individual PAGA Payment and Individual Settlement Payment is based on the number of Workweeks credited to you. Based on the number of Workweeks noted above:

Your Individual Settlement Payment is estimated to be \$[REDACTED]. The Individual Settlement Payment is subject to reduction for the employee's share of taxes, contributions, and withholding with respect to the wages portion of the Individual Settlement Payment and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Your Individual PAGA Payment is estimated to be \$[REDACTED]. The Individual PAGA Payment will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual PAGA Payment and Individual Settlement Payment reflected in this Notice are only estimates. Your actual Individual PAGA Payment and Individual Settlement Payment may be higher or lower.

If you want to participate in the Settlement and receive money from the Settlement, you do not have to do anything. You will automatically be included in the Settlement and issued your Individual Settlement Payment based on the number of Workweeks noted above, unless you decide to exclude yourself from the Settlement, and if you are an Aggrieved Employee you will be automatically issued your Individual PAGA Payment based on the number of Pay Periods noted above regardless of whether you opt out of the Class Settlement. If you do not exclude yourself from the Settlement and the Settlement is granted Final Approval by the Court, you will be deemed a Settlement Class Member, you will be bound by all terms of the Settlement and any judgment that may be entered by the Court based thereon, and you will release the claims described in Section III.C above. All Aggrieved Employees (even those who decide to exclude themselves from the Class Settlement) will receive an Individual PAGA Payment and release the Released PAGA Claims as described above.

If you want to participate in the Class Settlement, but you wish to dispute the above number of Workweeks credited to you, you must submit a written letter to the Settlement Administrator that: (1) your full name, telephone number, address, and the last four digits of your Social Security number; (2) contains the case name and number of the Action (*Jose Saldana, et al. v. International EZ Up, Inc.*, Case No. RIC1902873); (3) clearly states that you believe the Workweeks allocated to you are not correct; (4) clearly state the number of Workweeks you contend are correct; (5) attached any written documentation to support your contention; and (6) is returned by fax or mail to the Settlement Administrator at the address or fax number specified in Section IV.B below, postmarked or fax-stamped **on or before [the Response Deadline]**.

As a Class Member, you will not be separately responsible for the payment of attorney's fees or the costs and expenses of the Action, unless you hire your own attorney, in which event you will be responsible for your own attorney's fees and expenses.

B. Request Exclusion from the Settlement

If you do not wish to participate in the Class Settlement, you must submit a timely and valid request to be excluded from the Settlement to the Settlement Administrator, by either completing and returning an Exclusion Form (which is enclosed with this Notice) or submitting a written statement ("Opt Out Request") that: (1) includes your full name, telephone number, address, and the last four digits of your Social Security number; (2) contains the case name and number of the Action (*Jose Saldana, et al. v. International EZ Up, Inc.*, Case No. RIC1902873); and (3) clearly states that you wish to be excluded from

the Class Settlement.

Your Opt Out Request or Exclusion Form must be submitted to the Settlement Administrator by mail or fax, postmarked or fax-stamped **on or before [Response Deadline]**, at the following mailing address or fax number:

[Simpluris, Inc.]
[Mailing Address]
[Fax number]

If the Court grants final approval of the Settlement, any Class Member who does not affirmatively request exclusion from the Class Settlement by submitting a valid and timely Opt Out Request will be deemed a Settlement Class Member and will be bound by all of the terms of the Class Settlement, as well as any judgment that may be entered by the Court based thereon. Any Class Member who submits a valid and timely Opt Out Request will not have any right to object to, appeal, or comment on the Settlement, will not be entitled to receive an Individual Settlement Payment, and will not be bound by the Settlement and release of Released Class Claims (described in Section III.C above). If you are an Aggrieved Employee, you will however still receive an Individual PAGA Payment.

C. Object to the Settlement

You can object to the terms of the Settlement as long as you have not submitted an Opt Out Request. To object to the Settlement, you must submit a valid and timely objection to the Settlement Agreement (“Objection”) to the Settlement Administrator, by either completing and returning an Objection Form (which is enclosed with this Notice) or submitting a written statement that: (1) includes your full name, telephone number, address, and the last four digits of your Social Security number; (2) contains the case name and number of the Action (*Jose Saldana, et al. v. International EZ Up, Inc.*, Case No. RIC1902873); (3) clearly states that you object to the Class Settlement; and (4) clearly states the factual and/or legal basis of your objection.

Your Objection must be mailed to the Settlement Administrator at the address listed in Section IV.B above, postmarked **on or before [Response Deadline]**.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 1 of the Riverside County Superior Court, located at the Riverside Historic Courthouse, 4050 Main Street, Riverside, California 92501, on [date], at [time], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and award the Attorneys’ Fees and Litigation Costs to Class Counsel, Enhancement Awards to Plaintiffs, and Settlement Administration Costs to the Settlement Administrator.

The hearing may be continued. If the hearing is continued, the Settlement Administrator will only give notice of the continuance to Class Members who have submitted a valid Objection. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Joint Stipulation of Class Action and PAGA Settlement and Release, which is attached as Exhibit 1 to the Declaration of Edwin Aiwasian in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement filed on [DATE] and other papers which are on file with the Records Management Division of the Riverside County Superior Court, located at the Riverside County Superior Court, Riverside Historic Courthouse, 4050 Main Street, Riverside, California 92501. Some documents and information regarding the Action can also be accessed online for free or at a minimal charge at the Riverside County Superior Court’s website (<http://public-access.riverside.courts.ca.gov/OpenAccess/CivilMainMenu.asp>). To look up and access documents and information on the Court’s systems, you will need to use the case number for the Action (Case No. RIC1902873).

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.

EXHIBIT B

Edwin Aiwazian (SBN 232943)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiffs

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

JOSE SALDANA, individually, and on
behalf of other members of the general public
similarly situated; THOMAS JOHNS,
individually and on behalf of other aggrieved
employees pursuant to the California Private
Attorneys General Acts;

Plaintiff,

vs.

INTERNATIONAL E-Z UP INC., a
California corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No.: RIC1902873

**[PROPOSED] FIRST AMENDED CLASS
ACTION COMPLAINT FOR DAMAGES
& ENFORCEMENT UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT, CALIFORNIA LABOR CODE
§ 2698, ET SEQ.**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 204 (Wages Not Timely Paid During Employment);
- (7) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (8) Violation of California Labor Code § 1174(d) (Failure To Keep Requisite Payroll Records);
- (9) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (10) Violation of California Business & Professions Code §§ 17200, et seq.;

(11) Violation of California Labor Code § 2698, et seq. (California Labor Code Private Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff JOSE SALDANA (“Plaintiff SALDANA”), individually, and on behalf of other members of the general public similarly situated and Plaintiff THOMAS JOHNS (“Plaintiff JOHNS”) (together “Plaintiffs”), individually, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, and allege as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiffs exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendant because, upon information and belief, Defendant is a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, Defendant maintains offices, has agents, employs individuals, and/or transacts business in the State of California, County of Riverside. The majority of acts and omissions alleged herein relating to Plaintiffs and the other class members took place in the State of California, including the County of Riverside. At all relevant times, Defendant maintained its headquarters/“nerve center” within the State of California, County of Riverside.

PARTIES

5. Plaintiff JOSE SALDANA is an individual residing in the State of California, County of Riverside.

6. Plaintiff THOMAS JOHNS is an individual residing in the State of California, County of Riverside.

7. Defendant INTERNATIONAL E-Z UP INC., at all times herein mentioned, was and is, upon information and belief, a California corporation and, at all times herein mentioned, an employer whose employees are engaged throughout the State of California, including the County of Riverside.

8. At all relevant times, Defendant INTERNATIONAL E-Z UP INC. was the “employer” of Plaintiff within the meaning of all applicable California laws and statutes.

9. At all times herein relevant, Defendants INTERNATIONAL E-Z UP INC. and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization and/or consent of each defendant designated as a DOE herein.

10. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiffs who sue said defendants by such fictitious names. Plaintiffs are informed and believes, and based on that information and belief alleges, that each of the defendants designated as a DOE is legally responsible for the events and happenings referred to in this Complaint, and unlawfully caused the injuries and damages to Plaintiffs and the other class members as alleged in this Complaint. Plaintiffs will seek leave of court to amend this Complaint to show the true names and capacities when the same have been ascertained.

///

11. Defendant INTERNATIONAL E-Z UP INC. and DOES 1 through 100 will hereinafter collectively be referred to as “Defendants.”

12. Plaintiffs further allege that Defendants directly or indirectly controlled or affected the working conditions, wages, working hours, and conditions of employment of Plaintiff and the other class members and aggrieved employees so as to make each of said Defendants employers liable under the statutory provisions set forth herein.

CLASS ACTION ALLEGATIONS

13. Plaintiff SALDANA brings this action on his own behalf and on behalf of all other members of the general public similarly situated, and, thus, seeks class certification under California Code of Civil Procedure section 382.

14. The proposed class is defined as follows:

All current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time during the period from May 10, 2015 to final judgment.

15. Plaintiff SALDANA reserves the right to establish subclasses as appropriate.

16. The class is ascertainable and there is a well-defined community of interest in the litigation:

a. Numerosity: The class members are so numerous that joinder of all class members is impracticable. The membership of the entire class is unknown to Plaintiff SALDANA at this time; however, the class is estimated to be greater than fifty (50) individuals and the identity of such membership is readily ascertainable by inspection of Defendants’ employment records.

b. Typicality: Plaintiff SALDANA’s claims are typical of all other class members’ as demonstrated herein. Plaintiff SALDANA will fairly and adequately protect the interests of the other class members with whom he has a well-defined community of interest.

c. Adequacy: Plaintiff SALDANA will fairly and adequately protect the

1 interests of each class member, with whom he has a well-defined
2 community of interest and typicality of claims, as demonstrated herein.
3 Plaintiff SALDANA has no interest that is antagonistic to the other class
4 members. Plaintiff SALDANA's attorneys, the proposed class counsel,
5 are versed in the rules governing class action discovery, certification,
6 and settlement. Plaintiff SALDANA has incurred, and during the
7 pendency of this action will continue to incur, costs and attorneys' fees,
8 that have been, are, and will be necessarily expended for the prosecution
9 of this action for the substantial benefit of each class member.

- 10 d. Superiority: A class action is superior to other available methods for the
11 fair and efficient adjudication of this litigation because individual joinder
12 of all class members is impractical.
- 13 e. Public Policy Considerations: Certification of this lawsuit as a class
14 action will advance public policy objectives. Employers of this great
15 state violate employment and labor laws every day. Current employees
16 are often afraid to assert their rights out of fear of direct or indirect
17 retaliation. However, class actions provide the class members who are
18 not named in the complaint anonymity that allows for the vindication of
19 their rights.

20 17. There are common questions of law and fact as to the class members that
21 predominate over questions affecting only individual members. The following common
22 questions of law or fact, among others, exist as to the members of the class:

- 23 a. Whether Defendants' failure to pay wages, without abatement or
24 reduction, in accordance with the California Labor Code, was willful;
- 25 b. Whether Defendants' had a corporate policy and practice of failing to
26 pay their hourly-paid or non-exempt employees within the State of
27 California for all hours worked and missed (short, late, interrupted,
28 and/or missed altogether) meal periods and rest breaks in violation of

1 California law;

2 c. Whether Defendants required Plaintiffs and the other class members to
3 work over eight (8) hours per day, over forty (40) hours per week, and/or
4 over six (6) days per workweek and failed to pay the legally required
5 overtime compensation to Plaintiffs and the other class members;

6 d. Whether Defendants deprived Plaintiffs and the other class members of
7 meal and/or rest periods or required Plaintiffs and the other class
8 members to work during meal and/or rest periods without compensation;

9 e. Whether Defendants failed to pay minimum wages to Plaintiffs and the
10 other class members for all hours worked;

11 f. Whether Defendants failed to pay all wages due to Plaintiffs and the
12 other class members within the required time upon their discharge or
13 resignation;

14 g. Whether Defendants failed to timely pay all wages due to Plaintiffs and
15 the other class members during their employment;

16 h. Whether Defendants complied with wage reporting as required by the
17 California Labor Code; including, *inter alia*, section 226;

18 i. Whether Defendants kept complete and accurate payroll records as
19 required by the California Labor Code, including, *inter alia*, section
20 1174(d);

21 j. Whether Defendants failed to reimburse Plaintiffs and the other class
22 members for necessary business-related expenses and costs;

23 k. Whether Defendants' conduct was willful or reckless;

24 l. Whether Defendants engaged in unfair business practices in violation of
25 California Business & Professions Code section 17200, et seq.;

26 m. The appropriate amount of damages, restitution, and/or monetary
27 penalties resulting from Defendants' violation of California law; and
28

///

n. Whether Plaintiffs and the other class members are entitled to compensatory damages pursuant to the California Labor Code.

PAGA ALLEGATIONS

18. At all times herein set forth, PAGA was applicable to Plaintiff JOHNS' employment by Defendants.

19. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty, including unpaid wages and premium wages, to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

20. Pursuant to PAGA, a civil action under PAGA may be brought by an "aggrieved employee," who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

21. Plaintiff JOHNS was employed by Defendants and the alleged violations were committed against him during his time of employment and he is, therefore, an aggrieved employee. Plaintiff JOHNS and the other employees are "aggrieved employees" as defined by California Labor Code section 2699(c) in that they are current or former employees of Defendants, and one or more of the alleged violations were committed against them.

22. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee, including Plaintiff JOHNS, may pursue a civil action arising under PAGA after the following requirements have been met:

a. The aggrieved employee shall give written notice by online submission (hereinafter "Employee's Notice") to the LWDA and by certified mail to the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

///

b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the aggrieved employee by certified mail that it does not intend to investigate the alleged violation within sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar days of the postmark date of the Employee’s Notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

23. On December 30, 2020, Plaintiff JOHNS provided written notice by online submission to the LWDA and by certified mail to Defendant of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. Therefore, the administrative prerequisites under California Labor Code section 2699.3(a) to recover civil penalties against Defendants, in addition to other remedies, for violations of California Labor Code sections 201-204, 206, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 256, 510, 512, 551, 552, 558, 558.1, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197-1198, 1198.5, 1199, 2751, 2698 *et seq.*, 2800, 2802, 2810.5, 6401, 6403, and the applicable Industrial Welfare Commission Wage Orders have been satisfied.

GENERAL ALLEGATIONS

24. At all relevant times set forth herein, Defendants employed Plaintiffs and other persons as hourly-paid or non-exempt employees within the State of California, including the County of Riverside.

25. Defendants, jointly and severally, employed Plaintiff SALDANA as an hourly-paid, non-exempt employee, from approximately May 2012 to approximately February 2018, in the State of California, County of Riverside.

26. Defendants, jointly and severally, employed Plaintiff JOHNS as an hourly-paid, non-exempt employee, from approximately July 2013 to the present, in the State of California,

County of Riverside

27. Defendants hired Plaintiffs and the other class members, classified them as hourly-paid or non-exempt employees, and failed to compensate them for all hours worked and missed, late, short, and/or interrupted meal periods and/or rest breaks.

28. Defendants had the authority to hire and terminate Plaintiffs, the other class members, and the other allegedly aggrieved employees, to set work rules and conditions governing Plaintiffs' and the other class members' employment, and to supervise their daily employment activities.

29. Defendants exercised sufficient authority over the terms and conditions of Plaintiffs', the other class members', and the other allegedly aggrieved employees' employment for them to be joint employers of Plaintiff and the other class members.

30. Defendants directly hired and paid wages and benefits to Plaintiffs, the other class members, and the other allegedly aggrieved employees.

31. Defendants continue to employ hourly-paid or non-exempt employees within the State of California.

32. Plaintiffs, the other class members, and the other allegedly aggrieved employees worked over eight (8) hours in a day, forty (40) hours in a week, and/or over six (6) consecutive days in a workweek during their employment with Defendants.

33. Plaintiffs are informed and believe, and based thereon allege, that Defendants engaged in a uniform policy and systematic scheme of wage abuse against their hourly-paid or non-exempt employees within the State of California. This pattern and practice involved, *inter alia*, failing to pay them for all hours worked earned and for missed, short, late, and/or interrupted meal periods and rest breaks in violation of California law.

34. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs, the other class members, and the other allegedly aggrieved employees were entitled to receive certain wages for overtime compensation and that they were not receiving accurate overtime compensation for all overtime hours worked.

///

1 35. Plaintiffs are informed and believe, and based thereon allege, that Defendants
2 failed to use the commissions/non-discretionary bonuses/non-discretionary performance pay to
3 calculate the regular rate of pay used to calculate the overtime rate for the payment of overtime
4 wages where Plaintiffs, the other class members, and the other allegedly aggrieved employees
5 earned commissions/non-discretionary bonuses/non-discretionary performance pay and overtime
6 wages in the same workweek.

7 36. Plaintiffs are informed and believe, and based thereon allege, that Defendants
8 failed to provide Plaintiffs, the other class members, and the other allegedly aggrieved
9 employees all required rest and meal periods during the relevant time period as required under
10 the Industrial Welfare Commission Wage Orders and thus they are entitled to any and all
11 applicable premium wages. Defendants' failure included, *inter alia*, failing to provide
12 uninterrupted ten (10) minute rest periods and timely, uninterrupted thirty (30) minute meal
13 periods to Plaintiffs, the other class members, and the other allegedly aggrieved employees.
14 Plaintiffs, the other class members, and the other allegedly aggrieved employees were required
15 to perform work during meal periods and rest periods.

16 37. Plaintiffs are informed and believe, and based thereon allege, that Defendants
17 failed to relieve Plaintiffs, the other class members, and the other allegedly aggrieved
18 employees of all duties, failed to relinquish control over Plaintiffs', the other class members',
19 and the other allegedly aggrieved employees' activities, failed to permit Plaintiffs, the other
20 class members, and the other allegedly aggrieved employees a reasonable opportunity to take,
21 and impeded or discouraged them from taking thirty (30) minute uninterrupted meal breaks no
22 later than the end of their fifth hour of work for shifts lasting at least six (6) hours, and/or to
23 take second thirty (30) minute uninterrupted meal breaks no later than their tenth hour of work
24 for shifts lasting more than ten (10) hours

25 38. Plaintiffs re informed and believe, and based thereon allege, that Defendants
26 knew or should have known that Plaintiffs, the other class members, and the other allegedly
27 aggrieved employees were entitled to receive all meal periods or payment of one additional
28 hour of pay at Plaintiffs', the other class member's, and the other allegedly aggrieved

employees' regular rate of pay when a meal period was missed, short, late, and/or interrupted, and they did not receive all meal periods or payment of one additional hour of pay at Plaintiffs', the other class member's, and the other allegedly aggrieved employees' regular rate of pay when a meal period was missed, short, late, and/or interrupted.

39. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs, the other class members, and the other allegedly aggrieved employees were entitled to receive all rest periods or payment of one additional hour of pay at Plaintiffs', the other class member's, and the other allegedly aggrieved employees' regular rate of pay when a rest period was missed, short, late, and/or interrupted, and they did not receive all rest periods or payment of one additional hour of pay at Plaintiffs', the other class members', and the other allegedly aggrieved employees' regular rate of pay when a rest period was missed, short, late, and/or interrupted.

40. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs, the other class members, and the other allegedly aggrieved employees were entitled to receive at least minimum wages for compensation and that they were not receiving at least minimum wages for all hours worked.

41. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs, the other class members, and the other allegedly aggrieved employees were entitled to receive all wages owed to them upon discharge or resignation, including earned but unpaid overtime and minimum wages and meal and rest period premiums, and they did not, in fact, receive all such wages owed to them at the time of their discharge or resignation.

42. Plaintiffs are informed and believe, and based thereon allege, that Defendants knew or should have known that Plaintiffs, the other class members, and the other allegedly aggrieved employees were entitled to receive all wages owed to them during their employment. Plaintiffs, the other class members, and the other allegedly aggrieved employees did not receive payment of all wages, including overtime and minimum wages and meal and rest period premiums, within any time permissible under California Labor Code section 204.

1 43. Plaintiffs are informed and believe, and based thereon allege, that Defendants
2 knew or should have known that Plaintiffs, the other class members, and the other allegedly
3 aggrieved employees were entitled to receive complete and accurate wage statements in
4 accordance with California law, but, in fact, they did not receive complete and accurate wage
5 statements from Defendants. The deficiencies included, *inter alia*, the failure to include the
6 actual number of hours worked by Plaintiffs, the other class members, and the other allegedly
7 aggrieved employees, including work to be performed off-the-clock.

8 44. Plaintiffs are informed and believe, and based thereon allege, that Defendants
9 knew or should have known that Defendants had to keep complete and accurate payroll records
10 for Plaintiffs, the other class members, and the allegedly aggrieved employees in accordance
11 with California law, but, in fact, did not keep complete and accurate payroll records.

12 45. Plaintiffs are informed and believe, and based thereon allege, that Defendants
13 knew or should have known that Plaintiffs, the other class members, and the other allegedly
14 aggrieved employees were entitled to reimbursement for necessary business-related expenses.

15 46. Plaintiffs are informed and believe, and based thereon allege, that Defendants
16 knew or should have known that they had a duty to compensate Plaintiffs, the other class
17 members, and the other allegedly aggrieved employees pursuant to California law, and that
18 Defendants had the financial ability to pay such compensation, but willfully, knowingly, and
19 intentionally failed to do so, and falsely represented to Plaintiffs, the other class members, and
20 the other allegedly aggrieved employees that they were properly denied wages, all in order to
21 increase Defendants' profits.

22 47. During the relevant time period, Defendants failed to pay overtime wages to
23 Plaintiffs, the other class members, and the other allegedly aggrieved employees for all
24 overtime hours worked. Plaintiffs, the other class members, and the other allegedly aggrieved
25 employees did not receive compensation at one-and-one-half the regular rate of pay for all
26 hours spent performing job duties in excess of eight (8) hours per day, forty (40) hours per
27 week, and/or for the first eight (8) hours worked on the seventh day of work in a workweek.

28 ///

1 48. During the relevant time period, Defendants failed to use the commissions/non-
2 discretionary bonuses/non-discretionary performance pay to calculate the regular rate of pay
3 used to calculate the overtime rate for the payment of overtime wages where Plaintiffs, the other
4 class members, and the other allegedly aggrieved employees earned shift differential
5 pay/commissions/non-discretionary bonuses/non-discretionary performance pay and overtime
6 wages in the same workweek.

7 49. During the relevant time period, Defendants failed to provide all requisite
8 uninterrupted meal and rest periods to Plaintiffs, the other class members, and the other
9 allegedly aggrieved employees.

10 50. During the relevant time period, Defendants failed to pay Plaintiffs, the other
11 class members, and the other allegedly aggrieved employees at least minimum wages for all
12 hours worked.

13 51. During the relevant time period, Defendants failed to pay Plaintiffs, the other
14 class members, and the other allegedly aggrieved employees all wages owed to them upon
15 discharge or resignation.

16 52. During the relevant time period, Defendants failed to pay Plaintiffs, the other
17 class members, and the other allegedly aggrieved employees all wages within any time
18 permissible under California law, including, *inter alia*, California Labor Code section 204.

19 53. During the relevant time period, Defendants failed to provide complete or
20 accurate wage statements to Plaintiffs, the other class members, and the other allegedly
21 aggrieved employees.

22 54. During the relevant time period, Defendants failed to keep complete or accurate
23 payroll records for Plaintiffs, the other class members, and the other allegedly aggrieved
24 employees.

25 55. During the relevant time period, Defendants failed to reimburse Plaintiffs, the
26 other class members, and the other allegedly aggrieved employees for all necessary business-
27 related expenses and costs.

28 ///

56. During the relevant time period, Defendants failed to properly compensate Plaintiffs, the other class members, and the other allegedly aggrieved employees pursuant to California law in order to increase Defendants' profits.

57. California Labor Code section 218 states that nothing in Article 1 of the Labor Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty due to him [or her] under this article."

FIRST CAUSE OF ACTION

(Violation of California Labor Code §§ 510 and 1198)

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

58. Plaintiff SALDANA incorporates by reference the allegations contained in Paragraphs 1 through 57, and each and every part thereof with the same force and effect as though fully set forth herein.

59. California Labor Code section 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

60. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiff SALDANA and the other class members employed by Defendants, and working more than eight (8) hours in a day, more than forty (40) hours in a week, and/or more than six (6) consecutive days in a workweek, at the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day and up to and including twelve (12) hours, more than forty (40) hours in a week, and/or the first eight (8) hours worked on the seventh day of work in a workweek.

61. The applicable IWC Wage Order further provides that Defendants are and were required to pay Plaintiff SALDANA and the other class members overtime compensation at a rate of two times their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

62. California Labor Code section 510 codifies the right to overtime compensation at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours in a day, in excess of forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work, and to overtime compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day of work in a workweek.

63. During the relevant time period, Plaintiff SALDANA and the other class members worked in excess of eight (8) hours in a day, in excess of forty (40) hours in a week, and/or in excess of six (6) consecutive days in a workweek.

64. During the relevant time period, Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiff SALDANA and the other class members, including failing to properly calculate the regular rate of pay and overtime rate of pay. Plaintiff SALDANA and the other class members did not receive overtime compensation at one-and-one-half times the regular rate of pay for all hours spent performing job duties in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day.

65. Defendants' failure to pay Plaintiff SALDANA and the other class members the unpaid balance of overtime compensation, as required by California laws, violates the provisions of California Labor Code sections 510 and 1198, and is therefore unlawful.

66. Pursuant to California Labor Code section 1194, Plaintiff SALDANA and the other class members are entitled to recover unpaid overtime compensation, as well as interest, costs, and attorneys' fees.

SECOND CAUSE OF ACTION

(Violation of California Labor Code §§ 226.7 and 512(a))

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

67. Plaintiff SALDANA incorporates by reference the allegations contained in paragraphs 1 through 66, and each and every part thereof with the same force and effect as though fully set forth herein.

68. At all relevant times, the IWC Order and California Labor Code sections 226.7 and 512(a) were applicable to Plaintiff SALDANA's and the other class members' employment by Defendants.

69. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any meal or rest period mandated by an applicable order of the California IWC.

70. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) provide that an employer may not require, cause or permit an employee to work for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes, except that if the total work period per day of the employee is no more than six (6) hours, the meal period may be waived by mutual consent of both the employer and employee.

71. At all relevant times, the applicable IWC Wage Order and California Labor Code section 512(a) further provide that an employer may not require, cause or permit an employee to work for a work period of more than ten (10) hours per day without providing the employee with a second uninterrupted meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than twelve (12) hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

72. During the relevant time period, Plaintiff SALDANA and the other class members who were scheduled to work for a period of time no longer than six (6) hours, and who did not waive their legally-mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or rest period.

73. During the relevant time period, Plaintiff SALDANA and the other class members who were scheduled to work for a period of time in excess of six (6) hours were required to work for periods longer than five (5) hours without an uninterrupted meal period of not less than thirty (30) minutes and/or rest period.

74. During the relevant time period, Plaintiff SALDANA and other class members' meal periods were missed, shortened, late, and/or were interrupted because Defendants required them to perform and complete work duties, even when it resulted in missed, shortened, late, or interrupted meal periods. Defendants interrupted Plaintiff SALDANA and the other class members during purported meal periods with business-related inquiries, instructions for tasks, and/or to require them to return to work before a full thirty (30) minutes elapsed to complete or begin tasks.

75. As a result, Defendants failed to relieve Plaintiff SALDANA and the other class members of all duties, failed to relinquish control over Plaintiff SALDANA and the other class members' activities, failed to permit Plaintiff SALDANA and the other class members a reasonable opportunity to take, and impeded or discouraged them from taking thirty (30) minute uninterrupted meal periods no later than the end of their fifth hour of work for shifts lasting at least six (6) hours, and/or to take second thirty (30) minute uninterrupted meal periods no later than their tenth hour of work for shifts lasting more than ten (10) hours.

76. During the relevant time period, Defendants intentionally and willfully required Plaintiff SALDANA and the other class members to work during meal periods and failed to compensate Plaintiff SALDANA and the other class members the full meal period premium for work performed during meal periods.

77. During the relevant time period, Defendants failed to pay Plaintiff SALDANA and the other class members the full meal period premium due pursuant to California Labor Code section 226.7.

78. Defendants' conduct violates applicable IWC Wage Order and California Labor Code sections 226.7 and 512(a).

79. Pursuant to applicable IWC Wage Order and California Labor Code section 226.7(b), Plaintiff SALDANA and the other class members are entitled to recover from Defendants one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

///

THIRD CAUSE OF ACTION

(Violation of California Labor Code § 226.7)

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

80. Plaintiff SALDANA incorporates by reference the allegations contained in paragraphs 1 through 79, and each and every part thereof with the same force and effect as though fully set forth herein.

81. At all times herein set forth, the applicable IWC Wage Order and California Labor Code section 226.7 were applicable to Plaintiff SALDANA's and the other class members' employment by Defendants.

82. At all relevant times, California Labor Code section 226.7 provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the California IWC.

83. At all relevant times, the applicable IWC Wage Order provides that "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period" and that the "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless the total daily work time is less than three and one-half (3 ½) hours.

84. During the relevant time period, Defendants required Plaintiff SALDANA and other class members to work four (4) or more hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour period worked.

85. During the relevant time period, Defendants willfully required Plaintiff SALDANA and the other class members to work during rest periods and failed to pay Plaintiff SALDANA and the other class members the full rest period premium for work performed during rest periods.

86. During the relevant time period, Defendants failed to pay Plaintiff SALDANA and the other class members the full rest period premium due pursuant to California Labor Code section 226.7

87. Defendants' conduct violates applicable IWC Wage Orders and California Labor Code section 226.7.

88. Pursuant to the applicable IWC Wage Orders and California Labor Code section 226.7(c), Plaintiff SALDANA and the other class members are entitled to recover from Defendants one additional hour of pay at the employees' regular hourly rate of compensation for each work day that the rest period was not provided.

FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194, 1197, and 1197.1)

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

89. Plaintiff SALDANA incorporates by reference the allegations contained in paragraphs 1 through 88, and each and every part thereof with the same force and effect as though fully set forth herein.

90. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1 provide that the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

91. During the relevant time period, Defendants failed to pay minimum wage to Plaintiff and the other class members as required, pursuant to California Labor Code sections 1194, 1197, and 1197.1. Defendants' failure to pay minimum wages included, *inter alia*, Defendants' effective payment of zero dollars per hour for hours Plaintiff SALDANA and the other class members worked off-the-clock performing work duties.

92. Defendants' failure to pay Plaintiff SALDANA and the other class members the minimum wage as required violates California Labor Code sections 1194, 1197, and 1197.1. Pursuant to those sections Plaintiff SALDANA and the other class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

93. Pursuant to California Labor Code section 1197.1, Plaintiff SALDANA and the other class members are entitled to recover a penalty of \$100.00 for the initial failure to timely

1 pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each
2 employee minimum wages.

3 94. Pursuant to California Labor Code section 1194.2, Plaintiff SALDANA and the
4 other class members are entitled to recover liquidated damages in an amount equal to the
5 wages unlawfully unpaid and interest thereon.

6 **FIFTH CAUSE OF ACTION**

7 **(Violation of California Labor Code §§ 201 and 202)**

8 **(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)**

9 95. Plaintiff SALDANA incorporates by reference the allegations contained in
10 paragraphs 1 through 94, and each and every part thereof with the same force and effect as
11 though fully set forth herein.

12 96. At all relevant times herein set forth, California Labor Code sections 201 and
13 202 provide that if an employer discharges an employee, the wages earned and unpaid at the
14 time of discharge are due and payable immediately, and if an employee quits his or her
15 employment, his or her wages shall become due and payable not later than seventy-two (72)
16 hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her
17 intention to quit, in which case the employee is entitled to his or her wages at the time of
18 quitting.

19 97. During the relevant time period, Defendants intentionally and willfully failed to
20 pay Plaintiff SALDANA and the other class members who are no longer employed by
21 Defendants their wages, earned and unpaid, within seventy-two (72) hours of their leaving
22 Defendants' employ. Plaintiff SALDANA and other class members were not paid at the time
23 of their discharge wages earned and unpaid throughout their employment, including but not
24 limited to, minimum wages for time worked off-the-clock to perform work duties and for meal
25 and rest period premium payments.

26 98. Defendants' failure to pay Plaintiff SALDANA and the other class members
27 who are no longer employed by Defendants' their wages, earned and unpaid, within seventy-
28 two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code

sections 201 and 202.

99. California Labor Code section 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

100. Plaintiff SALDANA and the other class members are entitled to recover from Defendants the statutory penalty wages for each day they were not paid, up to a thirty (30) day maximum pursuant to California Labor Code section 203.

SIXTH CAUSE OF ACTION

(Violation of California Labor Code § 204)

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

101. Plaintiff SALDANA incorporates by reference the allegations contained in paragraphs 1 through 100, and each and every part thereof with the same force and effect as though fully set forth herein.

102. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed.

103. At all times herein set forth, California Labor Code section 204 provides that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month.

104. At all times herein set forth, California Labor Code section 204 provides that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

105. During the relevant time period, Defendants intentionally and willfully failed to pay Plaintiff SALDANA and the other class members all wages due to them, within any time

1 period permissible under California Labor Code section 204.

2 106. Plaintiff SALDANA and the other class members are entitled to recover all
3 remedies available for violations of California Labor Code section 204.

4 **SEVENTH CAUSE OF ACTION**

5 **(Violation of California Labor Code § 226(a))**

6 **(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)**

7 107. Plaintiff SALDANA incorporates by reference the allegations contained in
8 paragraphs 1 through 106, and each and every part thereof with the same force and effect as
9 though fully set forth herein.

10 108. At all material times set forth herein, California Labor Code section 226(a)
11 provides that every employer shall furnish each of his or her employees an accurate itemized
12 statement in writing showing (1) gross wages earned, (2) total hours worked by the employee,
13 (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid
14 on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of
15 the employee may be aggregated and shown as one item, (5) net wages earned, (6) the
16 inclusive dates of the period for which the employee is paid, (7) the name of the employee and
17 his or her social security number, (8) the name and address of the legal entity that is the
18 employer, and (9) all applicable hourly rates in effect during the pay period and the
19 corresponding number of hours worked at each hourly rate by the employee. The deductions
20 made from payments of wages shall be recorded in ink or other indelible form, properly dated,
21 showing the month, day, and year, and a copy of the statement or a record of the deductions
22 shall be kept on file by the employer for at least three years at the place of employment or at a
23 central location within the State of California.

24 109. Defendants have intentionally and willfully failed to provide Plaintiff
25 SALDANA and the other class members with complete and accurate wage statements. The
26 deficiencies include, but are not limited to: the failure to include the total number of hours
27 worked by Plaintiff SALDANA and the other class members.

28 ///

110. As a result of Defendants' violation of California Labor Code section 226(a), Plaintiff SALDANA and the other class members have suffered injury and damage to their statutorily-protected rights.

111. More specifically, Plaintiff SALDANA and the other class members have been injured by Defendants' intentional and willful violation of California Labor Code section 226(a) because they were denied both their legal right to receive, and their protected interest in receiving, accurate and itemized wage statements pursuant to California Labor Code section 226(a). Because Plaintiff SALDANA's and the other class members' wage statements did not reflect the accurate number of hours worked, Plaintiff SALDANA and the other class members were unable to determine the total amount they were owed, and were unable to verify they were paid the proper amount. In order to determine how much Plaintiff SALDANA and the other class members should have been paid, Plaintiff SALDANA and the other class members would have had to engage in discovery and mathematical computations in order to reconstruct the missing information

112. Plaintiff SALDANA and the other class members are entitled to recover from Defendants the greater of their actual damages caused by Defendants' failure to comply with California Labor Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per employee.

113. Plaintiff SALDANA and the other class members are also entitled to injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h).

EIGHTH CAUSE OF ACTION

(Violation of California Labor Code § 1174(d))

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

114. Plaintiff SALDANA incorporates by reference the allegations contained in paragraphs 1 through 113, and each and every part thereof with the same force and effect as though fully set forth herein.

115. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a central location in the state or at the plants or establishments at which employees are

1 employed, payroll records showing the hours worked daily by and the wages paid to, and the
2 number of piece-rate units earned by and any applicable piece rate paid to, employees
3 employed at the respective plants or establishments. These records shall be kept in accordance
4 with rules established for this purpose by the commission, but in any case shall be kept on file
5 for not less than two years.

6 116. Defendants have intentionally and willfully failed to keep accurate and complete
7 payroll records showing the hours worked daily and the wages paid, to Plaintiff SALDANA
8 and the other class members.

9 117. As a result of Defendants' violation of California Labor Code section 1174(d),
10 Plaintiff SALDANA and the other class members have suffered injury and damage to their
11 statutorily-protected rights.

12 118. More specifically, Plaintiff SALDANA and the other class members have been
13 injured by Defendants' intentional and willful violation of California Labor Code section
14 1174(d) because they were denied both their legal right and protected interest, in having
15 available, accurate and complete payroll records pursuant to California Labor Code section
16 1174(d).

17 **NINTH CAUSE OF ACTION**

18 **(Violation of California Labor Code §§ 2800 and 2802)**

19 **(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)**

20 119. Plaintiff SALDANA incorporates by reference the allegations contained in
21 paragraphs 1 through 118, and each and every part thereof with the same force and effect as
22 though fully set forth herein.

23 120. Pursuant to California Labor Code sections 2800 and 2802, an employer must
24 reimburse its employee for all necessary expenditures incurred by the employee in direct
25 consequence of the discharge of his or her job duties or in direct consequence of his or her
26 obedience to the directions of the employer.

27 121. Plaintiff SALDANA and the other class members incurred necessary business-
28 related expenses and costs that were not fully reimbursed by Defendants. For example, the

costs of necessary personal protective equipment (such as, safety glasses, ear plugs, back braces, and gloves), and the costs of the use of personal cell phones for business-related purposes.

122. Defendants have intentionally and willfully failed to reimburse Plaintiff SALDANA and the other class members for all necessary business-related expenses and costs.

123. Plaintiff SALDANA and the other class members are entitled to recover from Defendants their business-related expenses and costs incurred during the course and scope of their employment, plus interest accrued from the date on which the employee incurred the necessary expenditures at the same rate as judgments in civil actions in the State of California.

TENTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, et seq.)

(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)

124. Plaintiff SALDANA incorporates by reference the allegations contained in paragraphs 1 through 123, and each and every part thereof with the same force and effect as though fully set forth herein.

125. Defendants' conduct, as alleged herein, has been, and continues to be, unfair, unlawful and harmful to Plaintiff SALDANA, other class members, to the general public, and Defendants' competitors. Accordingly, Plaintiff SALDANA seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

126. Defendants' activities as alleged herein are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code section 17200, et seq.

127. A violation of California Business & Professions Code section 17200, et seq. may be predicated on the violation of any state or federal law. In this instant case, Defendants' policies and practices of requiring employees, including Plaintiff SALDANA and the other class members, to work overtime without paying them proper compensation violate California Labor Code sections 510 and 1198. Additionally, Defendants' policies and practices of requiring employees, including Plaintiff SALDANA and the other class members, to work

1 through their meal and rest periods without paying them proper compensation violate
2 California Labor Code sections 226.7 and 512(a). Defendants' policies and practices of failing
3 to pay minimum wages violate California Labor Code sections 1194, 1197, and 1197.1.
4 Moreover, Defendants' policies and practices of failing to timely pay wages to Plaintiff and the
5 other class members violate California Labor Code sections 201, 202 and 204. Defendants
6 also violated California Labor Code sections 226(a), 1174(d), 2800 and 2802.

7 128. As a result of the herein described violations of California law, Defendants
8 unlawfully gained an unfair advantage over other businesses.

9 129. Plaintiff SALDANA and the other class members have been personally injured
10 by Defendants' unlawful business acts and practices as alleged herein, including but not
11 necessarily limited to the loss of money and/or property.

12 130. Pursuant to California Business & Professions Code sections 17200, et seq.,
13 Plaintiff SALDANA and the other class members are entitled to restitution of the wages
14 withheld and retained by Defendants during a period that commences four years preceding the
15 filing of this Complaint; an award of attorneys' fees pursuant to California Code of Civil
16 procedure section 1021.5 and other applicable laws; and an award of costs.

17 **ELEVENTH CAUSE OF ACTION**

18 **(Violation of California Labor Code § 2698, et seq.)**

19 **(Against INTERNATIONAL E-Z UP INC. and DOES 1 through 100)**

20 131. Plaintiff JOHNS incorporates by reference the allegations contained in
21 paragraphs 1 through 130, and each and every part thereof with the same force and effect as
22 though fully set forth herein.

23 132. PAGA expressly establishes that any provision of the California Labor Code
24 which provides for a civil penalty to be assessed and collected by the LWDA, or any of its
25 departments, divisions, commissions, boards, agencies or employees for a violation of the
26 California Labor Code, may be recovered through a civil action brought by an aggrieved
27 employee on behalf of himself or herself, and other current or former employees.

28 ///

134. Plaintiff JOHNS and the other hourly-paid or non-exempt employees, are “aggrieved employees” as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations was committed against them.

135. Defendants' failure to pay overtime in violation of the Wage Orders and California Labor Code sections 510 and 1198, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 510 and 1198. Defendants' failure to pay all minimum and overtime wages due to Plaintiff and the other aggrieved employees, in violation of Labor Code §§ 206, 218.5, 218.6, 221, 510, 551, 552, 558, 558.1, 1102.5, 1182.12, 1194, 1194.2, 1197, 1198, 1199, 2751, and 2810.5.

136. Defendants' failure to provide legally required meal periods in violation of the Wage Orders and California Labor Code sections 226.7 and 512(a), as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 226.7 and 512(a).

137. Defendants' failure to provide legally required rest periods in violation of the Wage Orders and California Labor Code section 226.7, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226.7.

138. Defendants' failure to pay minimum wages in violation of the Wage Orders and California Labor Code sections 1194, 1197 and 1197.1, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 1194, 1197, and 1197.1.

Defendants' failure to pay all minimum and overtime wages due to Plaintiff JOHNS and the other aggrieved employees, in violation of Labor Code §§ 206, 218.5, 218.6, 221, 510, 551, 552, 558, 558.1, 1102.5, 1182.12, 1194, 1194.2, 1197, 1198, 1199, 2751, and 2810.5.

Failure to Timely Pay Wages Upon Termination

139. Defendants' failure to timely pay wages upon termination in violation of California Labor Code sections 201 and 202, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201 and 202.

Failure to Timely Pay Wages During Employment

140. Defendants' failure to timely pay wages during employment in violation of California Labor Code section 204, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 204.

Failure to Provide Compliant Wage Statements

141. Defendants' failure to provide compliant wage statements in violation of California Labor Code section 226(a), as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

Failure to Keep Complete or Accurate Payroll Records

142. Defendants' failure to keep complete or accurate payroll records in violation of California Labor Code section 1174(d), as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

Failure to Reimburse Necessary Business Expenses

143. Defendants' failure to reimburse all necessary business-related expenses and costs in violation of California Labor Code sections 2800 and 2802, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

144. Furthermore, Plaintiff JOHNS and the allegedly aggrieved employees made complaints to Defendants regarding the foregoing violations of the Labor Code and were retaliated against for doing so in violation of Labor Code 1102.5.

///

1 145. Pursuant to California Labor Code section 2699, Plaintiff JOHNS, individually,
2 and on behalf of all aggrieved employees, requests and is entitled to recover from Defendants
3 and each of them, business expenses, unpaid wages, and/or untimely wages according to proof,
4 interest, attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as
5 all penalties against Defendants, and each of them, including but not limited to:

- 6 a. Penalties under California Labor Code section 2699 in the amount of a
7 hundred dollars (\$100) for each aggrieved employee per pay period for the
8 initial violation, and two hundred dollars (\$200) for each aggrieved
9 employee per pay period for each subsequent violation;
10 b. Penalties under California Code of Regulations Title 8 section 11010, *et*
11 *seq.* in the amount of fifty dollars (\$50) for each aggrieved employee per
12 pay period for the initial violation, and one hundred dollars (\$100) for
13 each aggrieved employee per pay period for each subsequent violation;
14 c. Penalties under California Labor Code section 210 in addition to, and
15 entirely independent and apart from, any other penalty provided in the
16 California Labor Code in the amount of a hundred dollars (\$100) for each
17 aggrieved employee per pay period for the initial violation, and two
18 hundred dollars (\$200) for each aggrieved employee per pay period for
19 each subsequent violation; and
20 d. Any and all additional penalties and sums as provided by the California
21 Labor Code and/or other statutes.

22 146. Pursuant to California Labor Code section 2699(i), civil penalties recovered by
23 aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor
24 and Workforce Development Agency for the enforcement of labor laws and education of
25 employers and employees about their rights and responsibilities and twenty-five percent (25%)
26 to the aggrieved employees.

27 147. Further, Plaintiff JOHNS is entitled to seek and recover reasonable attorneys'
28 fees and costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other

1 applicable statute.

2 **DEMAND FOR JURY TRIAL**

3 Plaintiff SALDANA, individually, and on behalf of other members of the general
4 public similarly situated, and Plaintiff JOHNS, individually, and on behalf of other aggrieved
5 employees pursuant to the California Private Attorneys General Act, requests a trial by jury.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff SALDANA, individually, and on behalf of other members of
8 the general public similarly situated, and Plaintiff JOHNS, individually, and on behalf of other
9 aggrieved employees pursuant to the California Private Attorneys General Act, prays for relief
10 and judgment against Defendants, jointly and severally, as follows:

11 **Class Certification**

- 12 1. That this action be certified as a class action with respect to the first ten causes
13 of action;
- 14 2. That Plaintiff SALDANA be appointed as the representative of the Class;
- 15 3. That counsel for Plaintiffs be appointed as Class Counsel; and
- 16 4. That Defendants provide to Class Counsel immediately the names and most
17 current/last known contact information (address, e-mail and telephone numbers) of all class
18 members.

19 **As to the First Cause of Action**

- 20 5. That the Court declare, adjudge and decree that Defendants violated California
21 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay
22 all overtime wages due to Plaintiff SALDANA and the other class members;
- 23 6. For general unpaid wages at overtime wage rates and such general and special
24 damages as may be appropriate;
- 25 7. For pre-judgment interest on any unpaid overtime compensation commencing
26 from the date such amounts were due;
- 27 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
28 California Labor Code section 1194; and

9. For such other and further relief as the Court may deem just and proper.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to provide all meal periods (including second meal periods) to Plaintiff SALDANA and the other class members;

11. That the Court make an award to Plaintiff SALDANA and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a meal period was not provided;

12. For all actual, consequential, and incidental losses and damages, according to proof;

13. For premium wages pursuant to California Labor Code section 226.7(c);

14. For pre-judgment interest on any unpaid wages from the date such amounts were due;

15. For reasonable attorneys' fees and costs of suit incurred herein; and

16. For such other and further relief as the Court may deem just and proper.

As to the Third Cause of Action

17. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all rest periods to Plaintiff SALDANA and the other class members;

18. That the Court make an award to Plaintiff SALDANA and the other class members of one (1) hour of pay at each employee's regular rate of compensation for each workday that a rest period was not provided;

19. For all actual, consequential, and incidental losses and damages, according to proof;

20. For premium wages pursuant to California Labor Code section 226.7(c);

21. For pre-judgment interest on any unpaid wages from the date such amounts were due; and

22. For such other and further relief as the Court may deem just and proper.

As to the Fourth Cause of Action

23. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 1194, 1197, and 1197.1 by willfully failing to pay minimum wages to Plaintiff SALDANA and the other class members;

24. For general unpaid wages and such general and special damages as may be appropriate;

25. For statutory wage penalties pursuant to California Labor Code section 1197.1 for Plaintiff SALDANA and the other class members in the amount as may be established according to proof at trial;

26. For pre-judgment interest on any unpaid compensation from the date such amounts were due;

27. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Labor Code section 1194(a);

28. For liquidated damages pursuant to California Labor Code section 1194.2; and

29. For such other and further relief as the Court may deem just and proper.

As to the Fifth Cause of Action

30. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the time of termination of the employment of Plaintiff SALDANA and the other class members no longer employed by Defendants;

31. For all actual, consequential, and incidental losses and damages, according to proof;

32. For statutory wage penalties pursuant to California Labor Code section 203 for Plaintiff SALDANA and the other class members who have left Defendants' employ;

33. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

34. For such other and further relief as the Court may deem just and proper.

As to the Sixth Cause of Action

35. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 204 by willfully failing to pay all compensation owed at the time required by California Labor Code section 204 to Plaintiff SALDANA and the other class members;

36. For all actual, consequential, and incidental losses and damages, according to proof;

37. For pre-judgment interest on any unpaid compensation from the date such amounts were due; and

38. For such other and further relief as the Court may deem just and proper.

As to the Seventh Cause of Action

39. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders as to Plaintiff SALDANA and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

40. For actual, consequential and incidental losses and damages, according to proof;

41. For statutory penalties pursuant to California Labor Code section 226(e);

42. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h); and

43. For such other and further relief as the Court may deem just and proper.

As to the Eighth Cause of Action

44. That the Court declare, adjudge and decree that Defendants violated California Labor Code section 1174(d) by willfully failing to keep accurate and complete payroll records for Plaintiff SALDANA and the other class members as required by California Labor Code section 1174(d);

45. For actual, consequential and incidental losses and damages, according to proof;

46. For statutory penalties pursuant to California Labor Code section 1174.5; and

47. For such other and further relief as the Court may deem just and proper.

///

As to the Ninth Cause of Action

48. That the Court declare, adjudge and decree that Defendants violated California Labor Code sections 2800 and 2802 by willfully failing to reimburse Plaintiff SALDANA and the other class members for all necessary business-related expenses as required by California Labor Code sections 2800 and 2802;

49. For actual, consequential and incidental losses and damages, according to proof;

50. For the imposition of civil penalties and/or statutory penalties;

51. For reasonable attorneys' fees and costs of suit incurred herein; and

52. For such other and further relief as the Court may deem just and proper.

As to the Tenth Cause of Action

53. That the Court decree, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, et seq. by failing to provide Plaintiff SALDANA and the other class members all overtime compensation due to them, failing to provide all meal and rest periods to Plaintiff SALDANA and the other class members, failing to pay at least minimum wages to Plaintiff SALDANA and the other class members, failing to pay Plaintiff SALDANA's and the other class members' wages timely as required by California Labor Code section 201, 202 and 204 and by violating California Labor Code sections 226(a), 1174(d), 2800 and 2802.

54. For restitution of unpaid wages to Plaintiff SALDANA and all the other class members and all pre-judgment interest from the day such amounts were due and payable;

55. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violation of California Business and Professions Code sections 17200, et seq.;

56. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure section 1021.5;

57. For injunctive relief to ensure compliance with this section, pursuant to California Business and Professions Code sections 17200, et seq.; and

1 58. For such other and further relief as the Court may deem just and proper.

2 **As to the Eleventh Cause of Action**

3 59. For civil penalties and wages pursuant to California Labor Code sections
4 2699(a), (f), and (g) plus costs and attorneys' fees for violation of California Labor Code
5 sections 201-204, 206, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 256, 510, 512, 551,
6 552, 558, 558.1, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197-1198, 1198.5, 1199, 2751,
7 2698 *et seq.*, 2800, 2802, 2810.5, 6401, 6403 and the applicable Industrial Welfare
8 Commission Wage Orders; and

9 60. For such other and further relief as the Court may deem equitable and
10 appropriate.

11 Dated: March 3, 2021

LAWYERS *for* JUSTICE, PC

12
13 By: _____
14 Edwin Aiwarzian
15 *Attorneys for Plaintiffs*
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT C

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE, RIVERSIDE HISTORIC COURTHOUSE

JOSE SALDANA, individually, and on behalf
of other members of the general public
similarly situated,

Plaintiff,

vs.

INTERNATIONAL E-Z UP INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

CASE NO. RIC1902873

EXCLUSION FORM

Department: 1

Judge: Hon. Craig G. Riemer

Complaint Filed: May 10, 2019

Trial Date: None Set

TO: [NAME]
[ADDRESS]
[TELEPHONE NUMBER]
[LAST FOUR DIGITS OF SSN]

**USE AND RETURN THIS FORM ONLY IF YOU WISH TO EXCLUDE YOURSELF
FROM THE SETTLEMENT.**

If you wish to exclude yourself from the settlement, you must read and sign the following
statement and return this form by fax or mail to the Settlement Administrator, postmarked or fax-
stamped on or before [RESPONSE DEADLINE], at the following mailing address or fax
number:

International E-Z Up Class Action Settlement
Simpluris, Inc.
[INSERT MAILING ADDRESS]
[INSERT FAX NUMBER]

I request to be excluded from the class action settlement in the matter of *Jose Saldana, et al. v. International E-Z Up Inc.* By excluding myself from the settlement, I understand that I will not be bound by the Class Settlement and release, and that I will not receive an Individual Settlement Payment from the Class Settlement, but that I will still receive an Individual PAGA Payment.

Date: _____

Signature: _____

EXHIBIT D

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE, RIVERSIDE HISTORIC COURTHOUSE

JOSE SALDANA, individually, and on behalf
of other members of the general public
similarly situated,

Plaintiff,

vs.

INTERNATIONAL E-Z UP INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

CASE NO. RIC1902873

OBJECTION FORM

Department: 1

Judge: Hon. Craig G. Riemer

Complaint Filed: May 10, 2019

Trial Date: None Set

TO: [NAME]
[ADDRESS]
[TELEPHONE NUMBER]

USE AND RETURN THIS FORM ONLY IF YOU WISH TO OBJECT TO THE SETTLEMENT.

If you wish to object to the settlement, you must state all grounds for your objection, sign on the following page, and return this form by mail to the Settlement Administrator, at the following mailing address, postmarked on or before [RESPONSE DEADLINE].

**International E-Z Up Class Action Settlement
Simpluris, Inc.
[INSERT MAILING ADDRESS]**

I wish to object to the settlement on the following grounds:

Date: _____

Signature: _____

EXHIBIT 2

NOTICE OF CLASS ACTION SETTLEMENT

Jose Saldana, et al. v. International E-Z Up, Inc.
Superior Court of California for the County of Riverside, Case No. RIC1902873

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendant's records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment.

This Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the settlement, object to the settlement, and/or dispute the number of Workweeks that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class action settlement has been reached between Plaintiffs Jose Saldana and Thomas Johns ("Plaintiffs") and Defendant International E-Z Up Inc. ("Defendant") (Plaintiffs and Defendant together are referred to as the "Parties") in the case entitled *Jose Saldana, et al. v. International E-Z Up Inc.*, Riverside County Superior Court, Case No. RIC1902873 (the "Action"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Class" means all hourly-paid or non-exempt employees who worked for Defendant within the State of California at any time during the Class Period.

"Class Member" means a member of the Class.

"Class Period" means the time period from May 10, 2015 until May 8, 2020 or [date of Preliminary Approval], whichever is sooner.

"Aggrieved Employees" means Plaintiffs and Class Members who worked for Defendant within the PAGA Period.

"PAGA Period" means the time period from May 10, 2018 until May 8, 2020 or [date of Preliminary Approval], whichever is sooner.

II. BACKGROUND OF THE ACTION

On May 10, 2019, Plaintiff Saldana started the Action by filing the Class Action Complaint for Damages in the Riverside County Superior Court. On [FAC Date], Plaintiffs filed the First Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act of 2004, California Labor Code sections 2698, Et Seq. ("First Amended Complaint"). Plaintiffs claim that Defendant failed to properly pay overtime wages, provide compliant meal and rest breaks and associated premiums, properly pay minimum wages, timely pay wages upon termination and during employment and associated penalties, provide accurate wage statements, keep required payroll records, and reimburse business expenses, and thereby engaged in unfair business practices and asserts that Defendant owes penalties under the California Private Attorneys General Act of 2004, California Labor Code sections 2698, Et Seq. ("PAGA"). Plaintiffs seek, among other things, recovery of unpaid wages and meal and rest period premiums, recovery of loss, damage, or injury, penalties, interest, and attorneys' fees and costs.

Defendant denies all of the Plaintiffs' claims in the Action and denies that it violated any law. Defendant asserts that at all times it has complied with federal, state, and local laws.

The Parties participated in a full-day mediation session (a process where parties try to resolve their dispute with a third-party neutral mediator) with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into the Third Amended Joint Stipulation of Class Action and PAGA Settlement and Release (“Settlement,” “Agreement,” or “Settlement Agreement”).

On [date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed Simpluris, Inc. as the administrator of the Settlement (“Settlement Administrator”), Plaintiffs as representatives of the Class (“Class Representatives”), and the following attorneys as counsel for the Class (“Class Counsel”):

Edwin Aiwarzian
Arby Aiwarzian
Joanna Ghosh
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for International E-Z Up Inc. are:

Brent M. Giddens
Ashley A. Halberda
Brian E. Cole II
CDF Labor Law LLP
18300 Von Karman Ave., Suite 800
Irvine, California 92612
Telephone: (949) 622-1661

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be taken as an admission by Defendant that the claims in the Action have merit or that Defendant owes anything to Plaintiffs or to Class Members. Plaintiffs and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continuing the lawsuit, the Settlement is fair, reasonable, and adequate, and is in the best interests of Class Members. The Court has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the Final Approval Hearing. The Court has made no ruling on the merits of the Class Members’ claims and has determined only that a class action is the best option to manage the Class for settlement purposes. After Defendant provided relevant information to Class Counsel, the Settlement was reached after mediation and arm’s length negotiations between the Parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

If you are still employed by Defendant, your decision about whether to participate in the Settlement will not affect your employment. California law and Defendant’s policy strictly prohibit unlawful retaliation. Defendant will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of his/her decision to either participate or not participate in the Settlement.

III. SUMMARY OF THE SETTLEMENT

A. Settlement Formula

The total gross settlement amount is Nine Hundred and Fifty Thousand Dollars (\$950,000) (the “Gross Settlement Fund”). The portion of the Gross Settlement Fund that is available for payment to Class Members is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Gross Settlement Fund minus the following payments which are subject to approval by the Court: (1) Attorneys’ Fees in an amount not to exceed thirty-five percent (35%) of the Gross Settlement Fund (that is, Three Hundred Thirty-Two Five Hundred Dollars (\$332,500)); (2) Litigation Costs, consisting of reimbursement of actual costs and expenses in an amount not to exceed Forty Thousand Dollars (\$40,000) to Class Counsel; (3) Enhancement Awards in an amount not to exceed Seven Thousand Five Hundred Dollars (\$7,500) to Plaintiff Saldana

and in an amount not to exceed Five Thousand Dollars (\$5,000) to Plaintiff Johns for their services in the Action; (4) PAGA Settlement Amount in the amount of Seventy-Five Thousand Dollars (\$75,000) allocated toward penalties under PAGA, of which seventy-five percent (75%), or Fifty-Six Thousand Two Hundred Fifty Dollars (\$56,250), will be paid to the California Labor and Workforce Development Agency and twenty-five percent (25%), or Eighteen Thousand Seven Hundred Fifty Thousand Dollars (\$18,750), will be distributed to Class Members (“PAGA Payment”); and (5) Settlement Administration Costs in an amount not to exceed Ten Thousand Dollars (\$10,000) to the Settlement Administrator.

B. Individual Settlement Payments and Individual PAGA Payments

Each Class Member is eligible to receive payment under the Settlement of his or her share of the Net Settlement Amount (“Individual Settlement Payment”) based on the number of weeks during the Class Period commencing on Sunday and ending on the following Saturday in which a Class Member worked one or more days. (“Workweeks”).

The Settlement Administrator multiplied the Net Settlement Amount by a fraction that has as its numerator the number of Workweeks an individual Class Member has worked and as its denominator the total number of Workweeks of all Class Members (“Total Workweeks”) (which is listed in Section IV.A below).

Based on the Net Settlement Amount, the range of estimated Individual Settlement Payments to Class Members is [lowest estimated share to be provided by Settlement Administrator] (\$_____) to [highest estimated share to be provided by Settlement Administrator] (\$_____). The estimated average Individual Settlement Payment is [average estimated share to be provided by Settlement Administrator] (\$_____).

Each Individual Settlement Payment will be allocated one-third (33.33%) as wages which will be reported on an IRS Form W-2 and two-thirds (66.66%) as penalties and interest, which will be reported on an IRS Form 1099. Class Members who do not request exclusion from the Settlement as set forth below in Section IV.B (“Settlement Class Members”) will be issued payment of their Individual Settlement Payment, after reduction for the employee’s share of payroll taxes, contributions, and withholdings with respect to the wages portion of the Individual Settlement Payment, resulting in a net payment to the Settlement Class Member.

Each Aggrieved Employee will also receive a share of the PAGA Payment (“Individual PAGA Payment”), regardless of whether he or she submits a timely and valid Opt Out Request. The Individual PAGA Payment is a pro rata share of the PAGA Payment based on the number of pay periods during the PAGA Period during which an Aggrieved Employee worked for Defendant as an hourly-paid or non-exempt employee in California. The Settlement Administrator has multiplied the PAGA Payment of Eighteen Thousand Seven Hundred Fifty Thousand Dollars (\$18,750) by a fraction that has as its numerator the Aggrieved Employee’s Pay Periods and as the denominator the total Pay Periods of all Aggrieved Employees. (which is listed in Section IV.A below). Individual PAGA Payments will be allocated one hundred percent (100%) as penalties. Thus, the Individual PAGA Payments will be paid without any withholding amount and reported on an IRS Form 1099.

The range of estimated Individual PAGA Payments to Aggrieved Employees is [lowest estimated payment to be provided by Settlement Administrator] (\$_____) to [highest estimated payment to be provided by Settlement Administrator] (\$_____). The estimated average Individual PAGA Payment is [average estimated payment to be provided by Settlement Administrator] (\$_____).

If the Court grants final approval of the Settlement, Individual PAGA Payments and Individual Settlement Payments will be mailed to Settlement Class Members and Aggrieved Employees, respectively, at the address that is on file with the Settlement Administrator. For Settlement Class Members, the Settlement Administrator may include the Individual PAGA Payment in the same check as the Individual Settlement Payment. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

C. Released Claims

Upon the Effective Date, Plaintiffs and all Class Members who have not submitted a valid and timely Opt Out Request (that

is, Settlement Class Members) will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims. Upon the Effective Date, all Aggrieved Employees, regardless of whether they have opted out of the Class Settlement, will be deemed to have fully and finally released and discharged the Released Parties from the Released PAGA Claims.

“Released Class Claims” means any and all applicable state law wage-and-hour claims, rights, demands, liabilities, and causes of action of every nature and description, arising during the Class Period based on the facts alleged in the Operative Complaint, including without limitation, statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs, civil or statutory penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief, based on the following categories of allegations: unpaid overtime, unpaid meal period premiums, unpaid rest break premiums, unpaid minimum wages, final wages not timely paid, wages not timely paid during employment, non-compliant wage statements, failure to keep requisite payroll records, unreimbursed business expenses, including but not limited to violations of and claims arising under California law, *Labor Code* sections 201-204, 206, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 227.3, 256, 510, 512, 551, 552, 558, 558.1, 1102.5, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197-1198, 1198.5, 1199, 2751, 2698 *et seq.*, 2800, 2802, 2810.5, 6401, 6403, and claims for civil penalties under PAGA pursuant to or based on these sections; the applicable Industrial Welfare Commission Wage Orders; Cal. Code Regs. Title 8, § 11070; and the Business & Professions Code §17200, *et seq.* as it relates to the underlying California Labor Code claims referenced above, interest, attorneys’ fees and costs, including as permissible under California Code of Civil Procedure §1021.5.

“Released PAGA Claims” means the Released Class Claims which arise under PAGA during the PAGA Period.

“Released Parties” means Defendant and its officers, directors, employees, or agents.

D. Attorneys’ Fees and Costs to Class Counsel

Class Counsel will seek attorneys’ fees in an amount up to thirty-five percent (35%) of the Gross Settlement Fund (that is, up to Three Hundred Thirty-Two Thousand Five Hundred Dollars (\$332,500) and reimbursement of actual costs and expenses in an amount up to Forty Thousand Dollars (\$40,000) (collectively, “Attorneys’ Fees and Costs”). Subject to approval by the Court, the Attorneys’ Fees and Costs will be paid to Class Counsel from the Gross Settlement Fund. Class Counsel has been prosecuting the Action on behalf of Plaintiffs and Class Members on a contingency fee basis (that is, without being paid any money to date) and has been paying all costs and expenses of the lawsuit.

E. Enhancement Payment to Plaintiffs

Plaintiffs will seek an amount up to Seven Thousand Five Hundred Dollars (\$7,500) to Plaintiff Saldana and up to Five Thousand Dollars (\$5,000) to Plaintiff Johns (“Enhancement Awards”), in recognition of their services in connection with the Action. Subject to approval by the Court, the Enhancement Awards will be paid from the Gross Settlement Fund and, if awarded, will be paid to Plaintiffs in addition to their Individual PAGA Payment and Individual Settlement Payments that they are entitled to under the Settlement.

F. Settlement Administration Costs to the Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Ten Thousand Dollars (\$10,000) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Opt-Out Requests, Objections, and disputes of Workweeks, calculating and distributing payments and tax forms under the Settlement, and other activities required to administer the Settlement. Subject to approval by the Court, the Settlement Administration Costs will be paid to the Settlement Administrator from the Gross Settlement Fund.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

If you are a Class Member, **you do not need to take any action to receive an Individual PAGA Payment and Individual Settlement Payment**, but you have the opportunity to request exclusion from the Class Settlement (i.e., the portion of the Settlement as it pertains to the class action claims) (in which case you will not receive an Individual Settlement Payment,

but you will still receive an Individual PAGA Payment, if eligible), object to the Class Settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully below.

A. Participate in the Settlement

You are eligible to participate in the Settlement. According to the Defendant's records:

From May 10, 2015 through May 8, 2020, you were employed by Defendant as an hourly-paid or non-exempt employee within the State of California for [REDACTED] Workweeks.

From May 10, 2018 through May 8, 2020, you were employed by Defendant as an hourly-paid or non-exempt employee within the State of California for [REDACTED] Workweeks.

As explained above in Section III.B, your estimated Individual PAGA Payment and Individual Settlement Payment is based on the number of Workweeks credited to you. Based on the number of Workweeks noted above:

Your Individual Settlement Payment is estimated to be \$[REDACTED]. The Individual Settlement Payment is subject to reduction for the employee's share of taxes, contributions, and withholding with respect to the wages portion of the Individual Settlement Payment and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Your Individual PAGA Payment is estimated to be \$[REDACTED]. The Individual PAGA Payment will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual PAGA Payment and Individual Settlement Payment reflected in this Notice are only estimates. Your actual Individual PAGA Payment and Individual Settlement Payment may be higher or lower.

If you want to participate in the Settlement and receive money from the Settlement, you do not have to do anything. You will automatically be included in the Settlement and issued your Individual Settlement Payment based on the number of Workweeks noted above, unless you decide to exclude yourself from the Settlement, and if you are an Aggrieved Employee you will be automatically issued your Individual PAGA Payment based on the number of Pay Periods noted above regardless of whether you opt out of the Class Settlement. If you do not exclude yourself from the Settlement and the Settlement is granted Final Approval by the Court, you will be deemed a Settlement Class Member, you will be bound by all terms of the Settlement and any judgment that may be entered by the Court based thereon, and you will release the claims described in Section III.C above. All Aggrieved Employees (even those who decide to exclude themselves from the Class Settlement) will receive an Individual PAGA Payment and release the Released PAGA Claims as described above.

If you want to participate in the Class Settlement, but you wish to dispute the above number of Workweeks credited to you, you must submit a written letter to the Settlement Administrator that: (1) your full name, telephone number, address, and the last four digits of your Social Security number; (2) contains the case name and number of the Action (*Jose Saldana, et al. v. International EZ Up, Inc.*, Case No. RIC1902873); (3) clearly states that you believe the Workweeks allocated to you are not correct; (4) clearly state the number of Workweeks you contend are correct; (5) attached any written documentation to support your contention; and (6) is returned by fax or mail to the Settlement Administrator at the address or fax number specified in Section IV.B below, postmarked or fax-stamped **on or before [the Response Deadline]**.

As a Class Member, you will not be separately responsible for the payment of attorney's fees or the costs and expenses of the Action, unless you hire your own attorney, in which event you will be responsible for your own attorney's fees and expenses.

B. Request Exclusion from the Settlement

If you do not wish to participate in the Class Settlement, you must submit a timely and valid request to be excluded from the Settlement to the Settlement Administrator, by either completing and returning an Exclusion Form (which is enclosed with this Notice) or submitting a written statement ("Opt Out Request") that: (1) includes your full name, telephone number, address, and the last four digits of your Social Security number; (2) contains the case name and number of the Action (*Jose Saldana, et al. v. International EZ Up, Inc.*, Case No. RIC1902873); and (3) clearly states that you wish to be excluded from

the Class Settlement.

Your Opt Out Request or Exclusion Form must be submitted to the Settlement Administrator by mail or fax, postmarked or fax-stamped **on or before [Response Deadline]**, at the following mailing address or fax number:

[Simpluris, Inc.]
[Mailing Address]
[Fax number]

If the Court grants final approval of the Settlement, any Class Member who does not affirmatively request exclusion from the Class Settlement by submitting a valid and timely Opt Out Request will be deemed a Settlement Class Member and will be bound by all of the terms of the Class Settlement, as well as any judgment that may be entered by the Court based thereon. Any Class Member who submits a valid and timely Opt Out Request will not have any right to object to, appeal, or comment on the Settlement, will not be entitled to receive an Individual Settlement Payment, and will not be bound by the Settlement and release of Released Class Claims (described in Section III.C above). If you are an Aggrieved Employee, you will however still receive an Individual PAGA Payment.

C. Object to the Settlement

You can object to the terms of the Settlement as long as you have not submitted an Opt Out Request. To object to the Settlement, you must submit a valid and timely objection to the Settlement Agreement (“Objection”) to the Settlement Administrator, by either completing and returning an Objection Form (which is enclosed with this Notice) or submitting a written statement that: (1) includes your full name, telephone number, address, and the last four digits of your Social Security number; (2) contains the case name and number of the Action (*Jose Saldana, et al. v. International EZ Up, Inc.*, Case No. RIC1902873); (3) clearly states that you object to the Class Settlement; and (4) clearly states the factual and/or legal basis of your objection.

Your Objection must be mailed to the Settlement Administrator at the address listed in Section IV.B above, postmarked **on or before [Response Deadline]**.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 1 of the Riverside County Superior Court, located at the Riverside Historic Courthouse, 4050 Main Street, Riverside, California 92501, on [date], at [time], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and award the Attorneys’ Fees and Litigation Costs to Class Counsel, Enhancement Awards to Plaintiffs, and Settlement Administration Costs to the Settlement Administrator.

The hearing may be continued. If the hearing is continued, the Settlement Administrator will only give notice of the continuance to Class Members who have submitted a valid Objection. It is not necessary for you to appear at the Final Approval Hearing, although you may appear if you wish to.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Joint Stipulation of Class Action and PAGA Settlement and Release, which is attached as Exhibit 1 to the Declaration of Edwin Aiwasian in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement filed on [DATE] and other papers which are on file with the Records Management Division of the Riverside County Superior Court, located at the Riverside County Superior Court, Riverside Historic Courthouse, 4050 Main Street, Riverside, California 92501. Some documents and information regarding the Action can also be accessed online for free or at a minimal charge at the Riverside County Superior Court’s website (<http://public-access.riverside.courts.ca.gov/OpenAccess/CivilMainMenu.asp>). To look up and access documents and information on the Court’s systems, you will need to use the case number for the Action (Case No. RIC1902873).

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.

EXHIBIT 3

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE, RIVERSIDE HISTORIC COURTHOUSE

JOSE SALDANA, individually, and on behalf
of other members of the general public
similarly situated,

Plaintiff,

vs.

INTERNATIONAL E-Z UP INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

CASE NO. RIC1902873

EXCLUSION FORM

Department: 1
Judge: Hon. Craig G. Riemer

Complaint Filed: May 10, 2019
Trial Date: None Set

TO: [NAME]
[ADDRESS]
[TELEPHONE NUMBER]
[LAST FOUR DIGITS OF SSN]

**USE AND RETURN THIS FORM ONLY IF YOU WISH TO EXCLUDE YOURSELF
FROM THE SETTLEMENT.**

If you wish to exclude yourself from the settlement, you must read and sign the following
statement and return this form by fax or mail to the Settlement Administrator, postmarked or fax-
stamped on or before [RESPONSE DEADLINE], at the following mailing address or fax
number:

International E-Z Up Class Action Settlement
Simpluris, Inc.
[INSERT MAILING ADDRESS]
[INSERT FAX NUMBER]

I request to be excluded from the class action settlement in the matter of *Jose Saldana, et al. v. International E-Z Up Inc.* By excluding myself from the settlement, I understand that I will not be bound by the Class Settlement and release, and that I will not receive an Individual Settlement Payment from the Class Settlement, but that I will still receive an Individual PAGA Payment.

Date: _____

Signature: _____

EXHIBIT 4

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE, RIVERSIDE HISTORIC COURTHOUSE

JOSE SALDANA, individually, and on behalf
of other members of the general public
similarly situated,

Plaintiff,

vs.

INTERNATIONAL E-Z UP INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

CASE NO. RIC1902873

OBJECTION FORM

Department: 1

Judge: Hon. Craig G. Riemer

Complaint Filed: May 10, 2019

Trial Date: None Set

TO: [NAME]
[ADDRESS]
[TELEPHONE NUMBER]

USE AND RETURN THIS FORM ONLY IF YOU WISH TO OBJECT TO THE SETTLEMENT.

If you wish to object to the settlement, you must state all grounds for your objection, sign on the following page, and return this form by mail to the Settlement Administrator, at the following mailing address, postmarked on or before [RESPONSE DEADLINE].

**International E-Z Up Class Action Settlement
Simpluris, Inc.
[INSERT MAILING ADDRESS]**

I wish to object to the settlement on the following grounds:

Date: _____

Signature: _____

EXHIBIT 5

COMPLIANCE CHART
SALDANA V. INTERNATIONAL E-Z
RIVERSIDE COUNTY SUPERIOR COURT CASE NO. RIC1902873

Case Management Order requirements	Requirements met in moving papers
The settlement agreement shall not provide that any order, notice, form, or judgment shall include any provision that this order prohibits from being included in such a document. (Section H.1.a.)	
The settlement agreement shall be written, signed by all necessary parties, and filed, either in the form of a separate stipulation or as an authenticated attachment to a declaration of counsel. (Section H.1.b.)	Joint Stipulation of Class and PAGA Settlement and Release (“Settlement Agreement”), attached as “EXHIBIT 1” to the Declaration of Edwin Aiwazian in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement (“Aiwarzian Declaration”).
Regardless of the terms of the proposed settlement, counsel shall not file a Notice of Settlement of Entire Case (Judicial Council form CM-200). (Section H.2.)	No Notice of Settlement of Entire Case was filed by the Parties.
The motion shall be supported by a declaration from the plaintiff’s attorney that, <i>inter alia</i> , sets forth the attorney’s estimate of the number of individuals in the class. (Section H.3.a.i.)	Aiwazian Declaration, ¶ 9.
The motion shall be supported by a declaration from the plaintiff’s attorney that, <i>inter alia</i> , (A) sets forth the attorney’s estimate of the total amount of damages, monetary penalties or other relief that the class would be awarded on each claim if that claim were entirely successful at trial; (B) explains how that estimate was calculated; and (C) states the collective total for all of the claims. (Section H.3.a.ii.)	Aiwazian Declaration, ¶ 78.
The motion shall be supported by a declaration from the plaintiff’s attorney that, <i>inter alia</i> , sets forth: (A) the attorney’s estimate as to each claim of the total amount of damages, monetary penalties or other relief that the class could reasonably expect to be awarded at trial, taking into account difficulties of proof, the defendant’s defenses, and other attendant risks; (B) the attorney’s reasons for those estimates; (C) the likely award at trial for all claims collectively; and (D) both the number of class certification orders that the attorney has obtained following contested	Aiwazian Declaration, ¶¶ 25-77.

certification motions concerning similar claims and the number of trials that the attorney has conducted concerning class or individual actions alleging similar claims. (Section H.3.a.iii.)	
The motion shall be supported by a declaration from the plaintiff's attorney that, <i>inter alia</i> , sets forth the attorney's estimate of the recovery by the average class member if the settlement were approved. If the recovery by different class members will vary, the attorney shall also estimate the range (high and low) of possible recoveries. (Section H.3.a.iv.)	Aiwazian Declaration, ¶ 24.
The motion shall be supported by a declaration from the plaintiff's attorney that, <i>inter alia</i> , describes in detail the nature and extent of the formal and informal discovery exchanged and other factual investigation conducted to determine the size of the class and the strength of the class claims. (Section H.3.a.v.)	Aiwazian Declaration, ¶¶ 11-12, & 18.
The motion shall be supported by a declaration from the plaintiff's attorney that, <i>inter alia</i> , states (A) whether the attorney is aware of any class, representative or other collective action in any other court in this or any other jurisdiction that asserts claims similar to those asserted in this action on behalf of a class or group of individuals some or all of whom would also be members of the class defined in this action and (B) whether the attorney made reasonable inquiry of other members of the attorney's law firm and any associated law firm to determine whether those individuals are aware of any such similar actions. If any such similar actions are known to exist, the declaration shall also state (C) the name and case number of any such case, the nature of the claims asserted, the definition of the class or other parties on whose behalf the action is brought, and the procedural status of that case. (Section H.3.a.vi.)	Aiwazian Declaration, ¶ 21.
The motion shall describe how the value of any uncashed checks, unpaid cash residue, or other unclaimed or abandoned funds will be distributed. (Section H.3.c.)	Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Motion for Preliminary Approval") at 5:6-13 & 22:3-7.
The motion shall describe the intended distribution of unclaimed funds in accordance with Code of Civil Procedure section 384, subdivision (b), and shall explain the reason for choosing proposed recipient as opposed to other potential recipients considered. (Section H.3.c.i.)	Motion for Preliminary Approval at 5:11-21.

The motion shall be supported by a declaration from a knowledgeable person from the proposed recipient. The declaration shall: Establish that the recipient is a nonprofit organization, foundation, or program of the type described in that subdivision. (Section H.3.c.ii.A.)	Declaration from Jessica Munoz on behalf of Riverside CASA, ¶ 3.
The motion shall be supported by a declaration from a knowledgeable person from the proposed recipient. The declaration shall: Describe the history of the recipient, the types of projects that it has conducted or supported over the last five years, and any particular use to which it would intend to devote the unpaid residue if received. (Section H.3.c.ii.B.)	Cy Pres Declaration, ¶ 5.
The motion shall be supported by a declaration from a knowledgeable person from the proposed recipient. The declaration shall: Describe the geographic area in which the recipient operates in general, and the nature and extent of the services it provides in Riverside County in particular. (Section H.3.c.ii.C.)	Cy Pres Declaration, ¶¶ 3, 7.
The declarations of the attorneys for the plaintiff and for the defendant shall describe both (A) any relationship between the proposed recipient and (1) any class representative or other party, (2) any officer, director, or manager of any party, or (3) any attorney or law firm for any party, and (B) the inquiries the attorney made to determine whether there is any such relationship. (Section H.3.c.iii.)	Aiwazian Declaration, ¶ 23.
The agreement shall not provide that the unclaimed funds be deposited into the Industrial Relations Unpaid Wage Fund. (Lab. Code, § 96.6.) That fund is limited to wages or monetary benefits determined by the Labor Commissioner to be due to an employee after an investigation by the Labor Commissioner, and thus will not accept wages, penalties or interest distributed as part of the settlement of a lawsuit brought by a plaintiff other than the Labor Commissioner. (Section H.3.c.iv.)	Settlement Agreement, § 3.05(e).
If the settlement contemplates the use of an administrator to implement the terms of the settlement, the motion shall be supported by: A declaration from the plaintiff's attorney, stating whether bids were sought from multiple potential administrators and, if so, the results of that competitive bidding. If the parties did not select the lowest bidder, the declaration shall explain that decision. (Section H.3.d.i.)	Aiwazian Declaration, ¶ 15.

If the settlement contemplates the use of an administrator to implement the terms of the settlement, the motion shall be supported by a declaration from the administrator describing the administrator's experience. (Section H.3.d.ii.A.)	Settlement Administrator Declaration, ¶ 3, Exh. A.
If the settlement contemplates the use of an administrator to implement the terms of the settlement, the motion shall be supported by a declaration from the administrator describing the fee to be charged by the administrator to perform the services described in the settlement agreement and proposed order. (Section H.3.d.ii.B.)	Settlement Administrator Declaration, ¶ 5.
If the settlement contemplates the use of an administrator to implement the terms of the settlement, the motion shall be supported by a declaration from the administrator describing whether that fee is (1) fixed, (2) hourly, or (3) hourly with a cap. (Section H.3.d.ii.C.)	Settlement Administrator Declaration, ¶ 5, Exh. C.
If the settlement contemplates the use of an administrator to implement the terms of the settlement, the motion shall be supported by a declaration from the administrator describing how the fee was calculated. (Section H.3.d.ii.D.)	Settlement Administrator Declaration, ¶ 5, Exh. C.
Any release to be given by the participating class members (other than the class representatives) shall be limited to the defendants named in the complaint, together with their officers, directors, employees and agents. If any other parties are sought to be released, the motion shall both (A) identify those other parties by name and (B) explain the facts that justify their inclusion. (Section H.3.e.i.)	Motion for Preliminary Approval at 5:9-14. Settlement Agreement, ¶ 3.04.
Any release to be given by the participating class members (other than the class representatives) shall be limited to the claims stated in the complaint and those based solely upon the facts alleged in the complaint. (Section H.3.e.ii.)	Motion for Preliminary Approval at 5:9-14. Settlement Agreement, ¶ 5.01.
Any release to be given by the participating class members (other than the class representatives) shall be limited to liability that arose during the class period as defined by the settlement agreement. (Section H.3.e.iii.)	Motion for Preliminary Approval at 5:9-14. Settlement Agreement, ¶ 5.01.
If notice is not to be given by first class mail to addresses believed to be current, the motion shall discuss the proposed method of giving notice, the alternative methods considered, and the reasons that the proposed method is the one most likely to give actual notice to the greatest number of class members. If the identities of the class members are not known, the parties shall consider publication of notice	Notice is to be given via First Class Mail. See Motion for Preliminary Approval at 21:16-20 & 21:21-23.

in print, on the web, at the defendant’s place of business, and through social media. (Section H.3.f.)	<i>See also</i> Settlement Agreement, ¶ 3.03.
If the settlement requires any of the class members to submit claims: i. The motion shall explain why a claim process is reasonably necessary. If the defendant knows (A) the identity of the class members, (B) their addresses or former addresses, and (C) the facts necessary to calculate the recovery of each class member, the Court will require a strong showing of necessity for a claims process. ii. The motion shall explain the anticipated claims rate, and the basis for that prediction. (Section H.3.g.)	The Settlement does not require Class Members to submit claims.
If the settlement provides that any portion of the consideration paid or deposited by the defendant may revert to the defendant, the motion shall explain (i) the circumstances under which that reversion would occur, (ii) the maximum amount of any reversion, and (iii) why that reversion is fair. (Section H.3.h.)	The Settlement does not provide for any reversion to Defendant.
If the settlement includes compensation for unpaid wages, the motion shall describe how the employer’s share of any applicable payroll taxes will be handled. The Court suggests that the employer’s share not be paid out of the gross settlement fund. The Court is not likely to include the amount of those payments when calculating the plaintiff’s counsel’s percentage attorney’s fee. (Section H.3.i.)	Motion for Preliminary Approval at 4:16-24. Settlement Agreement., ¶ 3.06(e).
If the amount of the proposed settlement is sought to be justified in part by the assertion that the defendant cannot afford to pay any greater sum, the motion shall be supported by a declaration from plaintiff’s counsel or expert describing (i) the date and nature of the defendant’s financial records reviewed by the declarant and (ii) the information contained in these financial records that cause the plaintiff to believe that the defendant cannot afford a greater sum. The latter description shall be in sufficient detail to allow the Court to make an independent evaluation of the defendant’s ability to fund a larger settlement. (Section H.3.j.)	Not applicable.
The documents that will be read by or used by the class members — the proposed notice, objection form, exclusion form, and any claim form — shall be drafted in a manner that is likely to be readily understood by the members of the class. In particular, they shall not contain any Latin terms (such as <i>et al.</i> and <i>et seq.</i>), any legal terms of art	<i>See</i> Notice of Class Action Settlement (“Class Notice”), attached as “EXHIBIT 1” to the [Proposed] Order Granting Preliminary Approval of Class

(such as nonexempt and class certification), or any unfamiliar symbols or abbreviations (such as §, LLC, and 1W0). (Section H.3.k.i.)	Action Settlement (“Proposed Order”). See Exclusion Form, attached as “EXHIBIT 2” to the Proposed Order. See Objection Form, attached as “EXHIBIT 3” to the Proposed Order.
The motion shall be accompanied by a separately filed document entitled “Compliance Chart” that shall consist of two columns. One column shall separately list each requirement prescribed by each paragraph or subparagraph of sections H.1 and H3 through H. 10 of this order. The other column shall describe — by document name and page and line numbers — where in the moving papers the corresponding requirement is satisfied. (Section H.3.l.)	See this Compliance Chart, attached as “EXHIBIT 2” to the Aiwazian Declaration.
The motion shall be accompanied by a separate proposed order which shall include, as attachments to the order, the proposed notice (Cal. Rules of Court, rule 3.769(e)), proposed exclusion form, proposed objection form, any proposed claim form, and any other form that is proposed to accompany the notice. The Court is likely to modify these proposed forms. Therefore, the Court will not issue an order that merely incorporates by reference the forms attached to the settlement agreement. (Section H.4.a.)	See Class Notice; Exclusion Form; Objection Form.
The settlement agreement shall not be attached to the order. (Section H.4.b.)	Settlement Agreement is attached as “EXHIBIT 1” to the Aiwazian Declaration.
Counsel shall carefully review both the terms and the terminology of the order and accompanying forms (notice, objection form, exclusion form, and any claim form) to confirm that the various documents are internally consistent, consistent with each other, and consistent with the settlement agreement. (Section H.4.c.)	
The order shall state the name of any settlement administrator, and shall describe the nature of the services that the administrator will be required to perform, either directly or by reference to the settlement agreement. (Section H.4.d.)	Proposed Order, ¶ 10.
The order shall provide that the notice shall be accompanied by an exclusion form that the class members may use. The order shall provide that any exclusion form	Proposed Order, ¶¶ 12 & 13.

shall be submitted to the settlement administrator rather than filed with the court. The order shall not require the class member to send copies of the exclusion form to counsel, but may require the settlement administrator to do so. The order shall provide that the settlement administrator shall file a declaration concurrently with the filing of any motion for final approval, authenticating a copy of every exclusion form received by the administrator. (Section H.4.e.)	
The proposed order shall provide that the notice shall be accompanied by an objection form that the class members may use. The order shall provide that any objection shall be submitted to the settlement administrator rather than filed with the court. The order shall not require the class member to send copies of the objection form to counsel, but may require the settlement administrator to do so. The order shall provide that the settlement administrator shall file a declaration concurrently with the filing of any motion for final approval, authenticating a copy of every objection form received by the administrator. (Section H.4.f.)	Proposed Order, ¶¶ 12 & 14.
Neither the order, the notice, nor the objection form shall require an objecting party to do either of the following, either personally or through counsel, to appear at the hearing on the motion for final approval for that party's objection to be considered. (Section H.4.g.i.)	Proposed Order, ¶ 14. Class Notice, § IV.C. <i>See also</i> Objection Form.
Neither the order, the notice, nor the objection form shall require an objecting party to do either of the following, either personally or through counsel, to file or serve, or to state in the objection, a notice of intention to appear at the hearing on the motion for final approval. (Section H.4.g.ii.)	Proposed Order, ¶ 14. Class Notice, § IV.C. <i>See also</i> Objection Form.
The order shall require that either counsel or the administrator must give notice to any objecting party of any continuance of the hearing of the motion for final approval. (Section H.4.h.)	Proposed Order, ¶ 19.
Neither the order nor the notice shall purport to enjoin the class members from filing any actions or administrative claims or proceedings pending the final hearing on the settlement, or for any other period. (Section H.4.i.)	<i>See</i> Proposed Order; Class Notice.
If notice is to be given by mail, and if the class members will be required to submit a claim form, the order shall provide that the notice be accompanied by a stamped	The Settlement does not require claims to be made by Class Members.

envelope addressed to the claims administrator. (Section H.4.j.i.)	
If notice is to be given by mail, and if the class members will be required to submit a claim form, the order shall provide that the claims administrator be required to send a reminder notice to every class member from whom no claim or exclusion request is received within 30 days of mailing the notice. (Section H.4.j.ii.)	The Settlement does not require claims to be made by Class Members.
The notice shall include an estimate of the likely recovery by the individual class member to whom the notice is sent, if known. If it is not known, the notice shall include an estimate of the likely recovery by the average class member. If the recovery by different members will vary, the notice shall also include an estimate of the range of possible recoveries. (Section H.5.a.)	Class Notice, § IV.
To avoid discouraging any dissenting class members from objecting to the proposed settlement, the notice shall clearly indicate that the Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing. (Section H.5.b.)	Class Notice, § II.
The notice shall advise the class members of where they can find the settlement agreement, by describing (i) the full title and filing date either of the settlement agreement or of the declaration or other document to which the agreement was attached when filed with the Court, (ii) the address of the courthouse to which the case is assigned, and (iii) the address of the court's website at which the case file can be viewed on-line. (Section H.5.c.)	Class Notice, § VI.
Neither the notice nor the documents enclosed with it shall describe any settlement administrator as the "claims administrator" unless the class members are required to submit claims. (Section H.5.d.)	The settlement administrator is referred to as "Settlement Administrator." See Class Notice, § II; Exclusion Form; Objection Form.
The notice shall include a description of any release being given by the class members. (Section H.5.e.)	Class Notice, § III.C.
The information required to be provided by the class member on any claim form shall not exceed the minimum information necessary to (a) identify the claimant, (b)	The Settlement does not require claims to be made by Class Members.

process the claim, and (0) contact the claimant to clarify any uncertainties. (Section H.6.)	
The objection form shall (i) instruct the objecting class member that the objection must be mailed or delivered to the settlement administrator, (ii) state the name and address of the settlement administrator, and (iii) state the date by which the objection must be mailed or otherwise delivered. (Section H.7.a.)	Class Notice, §§ IV.B & IV.C. <i>See also</i> Objection Form.
The information required to be provided by an objecting class member on the objection form shall not exceed the minimum information necessary to (i) identify the objector as a person entitled to object to the settlement, (ii) describe the nature of and basis for the objection, and (iii) contact the objector to clarify any uncertainties. (Section H.7.b.)	Class Notice, § IV.C. <i>See also</i> Objection Form.
If a claim must be submitted to participate in the settlement, the objection form shall remind the objector that, to participate in the settlement in the event that the objection is overruled, the objector must also submit a claim. (Section H.7.c.)	The Settlement does not require claims to be made by Class Members.
The exclusion form shall (i) instruct the class member seeking exclusion that the exclusion form must be mailed or delivered to the settlement administrator, (ii) state the name and address of the settlement administrator, and (iii) state the date by which the exclusion form must be mailed or otherwise delivered. (Section H.8.a.)	Class Notice, § IV.B. <i>See also</i> Exclusion Form.
The information required to be provided by a class member on the exclusion form shall not exceed the minimum information necessary to (i) identify the person as a class member and (ii) contact the person to clarify any uncertainties. (Section H.8.b.)	Class Notice, § IV.B. <i>See also</i> Exclusion Form.
If the action includes a claim for statutory penalties under the Labor Code Private Attorney General Act of 2004 (“PAGA”), the motion shall explain the terms of any settlement of that claim. (Section H.9.a.)	Motion for Preliminary Approval at 1:13-17.
If the settlement provides for the payment of penalties under PAGA, the motion shall be accompanied by a declaration describing how the penalties were calculated and otherwise establishing facts sufficient to allow the Court to review and approve those penalties as required by Labor Code section 2699, subdivision (1). In particular, the declaration shall explain: (i) the nature of the alleged violations; (ii) the number of alleged individual violations, including both the length of the relevant employment	Aiwazian Declaration, ¶¶ 65-77.

period and the number of employees allegedly employed during that period; (iii) the total amount of penalties for which the defendant is potentially liable were those allegations to be proven. (Section H.9.b.)	
If the agreed—upon amount of PAGA penalties is less than the statutory maximum, the declaration shall explain why greater penalties would be unjust, arbitrary and oppressive, or confiscatory. (Lab. Code, § 2699, subd. (e)(2); <i>Amaral vs. Cinmx Corp. No. 2</i> (2008) 163 Ca1.App.4th 1157, 1213-1214.) In particular, the declaration shall explain: (i) the extent to which the alleged violations would be likely to be found true at trial, considering the weight of the evidence, the clarity of the applicable law, and the strength of any factual or legal defense likely to be asserted by the defendant; (ii) the nature and extent of the discovery or other investigation undertaken by the plaintiff to estimate the likelihood of proving those allegations at trial; (iii) the likelihood that any violations would be proven to have been knowing and intentional; (iv) the total amount of penalties for which the defendant would be likely to be found liable at trial; (v) any facts that tend to suggest that the imposition of the total amount of statutory penalties for which the defendant would be likely to be found liable at trial would be unjust, arbitrary and oppressive, or confiscatory; (vi) how the amount of the agreed-upon penalties was calculated or otherwise arrived at; (vii) whether the parties utilized the services of any neutral party to mediate this dispute; (viii) any other factors that are material to a determination that the amount of the agreed-upon penalties is fair. (Section H.9.c.)	Aiwazian Declaration, ¶¶ 11-12, 65-77.
If the Court either denies the motion or continues the hearing on the motion, and if the plaintiff thereafter files any amended settlement agreement, order, notice or form in support of either that motion or a renewed motion, the plaintiff shall file a declaration authenticating a “red-lined” version of the amended document, showing how the earlier version was modified. (Section H.10.)	There are no revised documents as of the filing of this motion.