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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

CARLOS HUMBERTO CARRILLO DIAZ,
an individual, on behalf of himself and others
similarly situated

PLAINTIFF,

v.

RECON360, LLC; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

CASE NO. 20CV370603

[Case Assigned for All Purposes to Hon. Sunil
R. Kulkarni in Dept. 1]

**DECLARATION OF KELSEY M.
SZAMET IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS SETTLEMENT
AND MOTION FOR APPROVAL OF
ATTORNEYS' FEES AND COSTS**

*[Filed concurrently with Motion for Final
Approval; Motion for Approval of Attorneys'
Fees and Costs; Declarations of Carlos
Humberto Carrillo Diaz and Nathalie
Hernandez, Proposed Order, and Judgment]*

Date: June 9, 2022

Time: 1:30 p.m.

Dept.: 1

Complaint Filed: September 22, 2020

FAC Filed: November 30, 2020

Trial Date: None Set

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1. I am an attorney licensed to practice before all of the courts of the State of California. I am partner in the law firm of Kingsley & Kingsley, APC and one of the attorneys of record for Plaintiff CARLOS HUMBERTO CARRILLO DIAZ in the above-entitled action. I have personal knowledge of the facts set forth herein, and if called upon as a witness, I could and would testify competently thereto.

3. I graduated cum laude from the University of California, San Diego in 2004 with a degree in Human Development. I graduated from the University of California, Los Angeles School of Law in 2008. I am admitted to practice before the following Courts: United States Supreme Court; United States District Court, Northern, Eastern, Southern and Central of California; all California State Courts.

4. I have been involved in all of the settlement discussions leading to the present settlement as embodied in the Joint Stipulation of Class Action Settlement and Release of Claims (“Settlement” or “Settlement Agreement”). A true and correct copy of the Settlement is attached hereto as Exhibit “1”.

5. Recon360, LLC is a construction company that provides services such as maintenance, roofing, painting, and electrical work.

6. Plaintiff began performing work for Defendant from 2018 to on or about April 4, 2020 in Santa Clara County. Plaintiff contends that Defendant failed to provide lawful meal periods, failed to provide lawful rest periods, failed to reimburse Plaintiff and the proposed class for work-related expenses, and failed to pay all wages due at the time of termination.

7. On September 22, 2020, Plaintiff submitted a notice letter to the Labor and Workforce Development Agency (“LWDA”) and Defendant regarding his intent to file an action

1 seeking civil penalties under the Labor Code Private Attorneys General Act of 2004, §2699, *et*
2 *seq.* (“PAGA”).

3 8. That same day, Plaintiff filed a Class Action Complaint on behalf of himself and
4 the proposed class in the California Superior Court, in and for the County of Santa Clara, thereby
5 initiating the civil action entitled *CARLOS HUMBERTO CARRILLO DIAZ an individual, on*
6 *behalf of himself and others similarly situated v. RECON360, LLC; and Does 1 thru 50, inclusive.*
7 (hereinafter, the “Action”) Specifically, the Action alleges that Defendant failed to provide meal
8 breaks pursuant to Labor Code §§ 226.7 and 512, failed to provide rest breaks pursuant to Labor
9 Code § 226.7, failed to reimburse expenses pursuant to Labor Code § 2802, failed to provide all
10 wages due at the time of termination pursuant to Labor Code § 203, and violated of Business &
11 Professions Code § 17200.

12 9. On November 30, 2020, Plaintiff amended his complaint, adding an additional
13 cause of action for penalties under the California Labor Code’s Private Attorneys General Act
14 (“PAGA”) based upon the facts previously alleged in the Complaint.

15 **THE DISCOVERY PROCESS AND MEDIATION**

16 10. After the matter was at issue, the Parties began to engage in informal discovery to
17 understand the nature of the allegations and the scope of potential liability.

18 11. Through this discovery, Plaintiff sought numerous documents and substantial
19 amounts of data that were needed to evaluate the case.

20 12. These documents included requests for time and wage records for the Class,
21 policies and practices in place during the class period, including any policies regarding meal
22 breaks, rest breaks, the payment of wages, and employee training in place during the class period,
23 as well as data surrounding the number of current and former employees.

24 13. Defendant provided Plaintiff’s counsel with pertinent documents and data for the
25 Class Members so that the Parties could fully investigate the claims at issue and understand their
26 strengths and weaknesses.

27 14. The Parties began to discuss potential resolution.

28 15. The Parties attended a full-day mediation with experienced class action mediator

1 the Hon. Jamie Jacobs-May (Ret.) on May 13, 2021. The Parties engaged in good faith, arms-
2 length negotiations aided by Judge Jacobs-May and were able to reach a tentative settlement of
3 the Action, subject to finalization of the formal Joint Stipulation of Class Action Settlement and
4 Release of Claims and the approval of the Court. The Parties have since engaged in extensive
5 negotiations about the terms and conditions of the Settlement Agreement. The Parties have now
6 entered into this formalized Settlement Agreement now presented to the Court for Preliminary
7 Approval.

8 16. Defendant denies any liability or wrongdoing of any kind associated with the claims
9 alleged in the Action, disputes the damages and penalties claimed by Plaintiff, and further contends
10 that, for any purpose other than settlement, Plaintiff's claims are not appropriate for class or
11 representative action treatment. Defendant contends, among other things, that, at all times, it has
12 complied with the California Labor Code, and the Industrial Wage Commission Orders.

13 17. Based on their own independent investigation and evaluation, Class Counsel is of
14 the opinion that the Settlement Agreement with Defendant is fair, reasonable and adequate, and in
15 the best interest of the settlement classes in light of all known facts and circumstances, including
16 the risk of significant delay, defenses asserted by Defendant, uncertainties regarding a class and
17 representative action trial on the merits, and numerous potential appellate issues. Although
18 Defendant denies any liability, Defendant is agreeing to this Settlement Agreement solely to avoid
19 the cost of litigation. Accordingly, the Parties and their counsel desire to fully, finally, and forever
20 settle, compromise and discharge all disputes and claims arising from or relating to the Action on
21 the terms set forth here.

22 **PRELIMINARY APPROVAL**

23 18. On February 11, 2022, the Court issued an Order preliminarily approving the
24 settlement in this case, approving the proposed Class Notice, ordering that the Settlement
25 Administrator send notice to the Settlement Class, and setting a date for the Final Approval and
26 Fairness Hearing.

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20. As detailed fully in the Settlement Agreement, the Settlement provides for Defendant to pay a Gross Settlement Amount of \$700,000.00, which includes the sum of the Individual Settlement Amounts, the Named Plaintiff service award, the Class Counsel Award, PAGA Payment, and the Settlement Administration Costs.

21. The Court approved the proposed Class Notice and directed the mailing of the Notice by first-class mail to Settlement Class Members in accordance with the proposed implementation schedule.

22. All settlement discussions were made by experienced and informed counsel, who believe that this settlement represents a favorable resolution for the Settlement Class Members.

24. Defendant provided Plaintiff's counsel with pertinent documents and data for the Class Members.

26. Class Counsel have significant experience in cases of this type, including several years prosecuting wage, hour, and working condition violations.

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1 best interests of the class and that the average recovery for each Settlement Class Member of over
2 \$1,500 is substantial, given the risks inherent in litigation and the defenses asserted.

3 28. This discovery permitted Class Counsel to fairly evaluate the strength of the case
4 and the risks associated with ongoing litigation.

5 29. Class Counsel is experienced in handling wage and hour class actions and, after
6 weighing all of the following factors, supports this Settlement Agreement.

7 30. Defendant produced a sampling of both handwritten and electronic time records for
8 class members from approximately August 2017 to present.

9 31. Plaintiff contends that the handwritten time records are facially very similar
10 generally showing that class members clocked in at 8:00 am, clocked out for lunch from 12-12:30
11 pm, and clocked out for the day at 4:30pm.

12 32. At some point in mid-2019, Defendant switched over to electronic timekeeping.

13 33. These records are quite remarkably similar for all class members.

14 34. As with the handwritten notes, the majority of electronic time records show similar
15 time punches of working 8:00 am – 12:00 pm, Lunch 12:00-12:30pm, and Out 4:30pm.

16 35. Though Plaintiff acknowledges that there are some punches where the person
17 clocked in at perhaps 7:59 am or 8:01 am, Plaintiff argues that often those punch records show
18 meals periods that are not 30 minutes in length, are taken late, or missed altogether.

19 36. Plaintiff maintained that Defendant's records are potentially very problematic for
20 Defendant.

21 37. Plaintiff argues that these records are so specious that they are akin to having no
22 records at all.

23 38. Plaintiff asserts that the class can invoke the burden shifting clearly set forth in
24 *Donahue* to successfully argue that nearly identical records are the same as having records rife
25 with violations which will create a presumption of liability.

26 39. The burden would then, in theory, shift to Defendant to prove that in fact all class
27 members got their meal periods at exactly 12-12:30 each day throughout the entire class period
28 without fail.

1 40. Plaintiff was confident that if the burden did shift to Defendant, Defendant would
2 attempt to gather testimonial evidence from class members indicating that the records were
3 accurate and they took their meal breaks as reflected in the records.

4 41. Though Plaintiff does not believe this was the case, Plaintiff must acknowledge it
5 poses risks for the Class.

6 42. There is risk as to both sides as to what declarations and depositions of class
7 members might reveal.

8 43. Apart from the issue above regarding Defendant's records, Plaintiff contends that
9 Defendant failed to provide Plaintiff and the proposed class with proper meal periods of not less
10 than thirty (30) minutes as required by the Labor Code during the relevant time period because he
11 and other class members were required to keep personal cellphones on and be available at all times
12 for calls/texts.

13 44. Plaintiff contends that he was routinely interrupted, was not relieved of all duties
14 and free from Defendant's control, and was sometimes required to clock out for lunch and keep
15 working.

16 45. Defendant argued that Class Members were unquestionably provided with legally
17 compliant meal periods.

18 46. Plaintiff anticipated that Defendant would assert that such an argument would pose
19 individual issues and Defendant would be entitled to inquire of each class member, on each day
20 whether or not they were interrupted, thereby creating individual issues and defeating class
21 certification.

22 47. Plaintiff acknowledged some risk but was confident that he could certify the meal
23 period claim and that Defendant faced significant risk and exposure on the meal period claim.

24 48. Plaintiff contends that Defendant therefore owes Plaintiff and proposed class
25 members a rest period penalty for every shift of three and one half hours in length or more.

26 49. Plaintiff maintains that the same factual contentions apply to the rest break claim
27 as discussed above regarding the meal break claim namely that: (1) Plaintiff was not able to take
28 two compliant rest periods each day; and (2) if he was able to take a moment to rest, he was

1 required to keep his cellphone on at all times and therefore not free from employer control; and he
2 was routinely called/interrupted.

3 50. The same risk analysis does not apply as with the meal periods, though, because
4 there generally are no records associated with rest periods.

5 51. Plaintiff does not believe that he would be able to invoke the Donahue burden
6 shifting in the same way.

7 52. Plaintiff had to acknowledge that it could potentially be easier for Defendant to
8 defeat certification of this claim if it was able to gather testimonial evidence from class members
9 indicating that they were able to take all required rest breaks each day.

10 53. Though Plaintiff does not believe this was the case, Plaintiff must acknowledge it
11 poses risks for the Class.

12 54. Just as with meal periods, there is risk as to both sides as to what declarations and
13 depositions of class members might reveal.

14 55. Plaintiff alleges that Defendant failed to reimburse Plaintiff and the proposed class
15 for the cost of personal cellphone usage for work purposes including (1) downloading and using
16 the “Paylocity” application for time clock purposes; and (2) being available and using his phone
17 for calls and texts throughout the day, each day.

18 56. Plaintiff also contends that he was required to use his personal vehicle for work
19 related purposes.

20 57. Plaintiff contends that Defendant owes reimbursement and a PAGA penalty for
21 each pay period worked by each class member/aggrieved employee during the relevant time
22 period.

23 58. Plaintiff anticipated that Defendant would argue that Plaintiff was not required to
24 use his personal cellphone for work purposes and that if he did, it was by choice.

25 59. Defendant would also argue that it did not require class members to use personal
26 vehicles for work related purposes.

27 60. Defendant would also likely argue that if Plaintiff used his phone or personal
28 vehicle those issues were unique to him and not common to the class, thereby defeating

1 commonality.

2 61. Plaintiff and numerous proposed class members are no longer employed by
3 Defendant.

4 62. Plaintiff contends that Defendant was fully aware of its payment policies and
5 practices and intended to carry out said policies and practices.

6 63. Plaintiff maintains that Defendant is liable for damages.

7 64. It is reasonable to assume that the Supreme Court took *Naranjo* to address this issue
8 and overrule the lower court with a clear statement that waiting penalties do flow from meal and
9 rest period violations.

10 65. If this assumption turns out to be correct, there is significant risk and exposure for
11 Defendant on the Section 203 penalties.

12 66. As a result of Defendant's conduct alleged above, Plaintiff seeks PAGA penalties
13 available for violations under Labor Code sections 201, 202, 203, 226.7, 512, and 2802.

14 67. Plaintiff assessed multiple risks associated with the PAGA claim.

15 68. The aggrieved employees' PAGA claims are derivative of all the foregoing class
16 claims. If Plaintiff cannot establish liability on the underlying claim (taking into account the risks
17 discussed above), then the derivative PAGA claim will also necessarily fail.

18 69. A court has discretion to award less than the maximum penalty.

19 70. The likelihood of the Court reducing the PAGA damages awarded to Plaintiffs and
20 the aggrieved employees – assuming liability is proven as to each of Plaintiffs' claims – is also
21 higher in this case where these same individuals will also be receiving money for the same
22 unlawful conduct under the class claims.

23 71. There is significant expense associated with the class certification process, which
24 the Parties can avoid by entering into the contemplated Settlement Agreement now.

25 72. If the Court did eventually certify class, trial of a case involving approximately 265
26 Settlement Class Members would require the retention of expensive expert witnesses, the accrual
27 of extensive litigation costs, and a significant time overlay by the parties.

28 73. Given the complexity and unsettled nature of the issues in this case it is likely that

any outcome at trial would have resulted in a lengthy and costly appeal. An appeal would result in further delay for the Settlement Class Members who are waiting for a resolution in this matter.

74. This case has not been certified to be tried as a class action. While Plaintiff believes there is strong evidence to support certification of several possible subclasses (especially a rest period class), certification is always hard fought and subject to judicial discretion. Moreover, in class actions, decertification is always a possibility. In attempting to certify a class, the parties would need to conduct multiple depositions, including of the Named Plaintiff and of several person(s) most knowledgeable regarding Defendant's meal and rest policies. There is a risk for both sides as to what these depositions would reveal and whether they would support class certification to the extent expected.

75. It was very difficult for the Parties to reach this Settlement of \$700,000.00.

76. This Settlement is the result of adversarial, non-collusive, and arms-length negotiations. The Parties arrived at it after extensive investigation and discovery, careful evaluation of the law, risks, and all information substantiating the amount of penalties reasonably likely to be awarded to the class were the trier of fact to find Defendant liable, and the assistance of an experienced mediator, Judge Jacobs-May.

77. Plaintiff assessed the full value of the meal period claim, without any discount, at approximately \$1,044,051.20.

78. This calculation was based upon the assumption that each Settlement Class Members was not provided a complaint meal period for each day worked so a total of 5 meal period penalties per person, per week, at an average rate of pay of \$23.68.

79. If the violation rate was reduced from five times per week to two, for purposes of assessing damages, this number would go down.

80. If Plaintiff assumed there were two meal period violations per workweek per Class Member for the purposes of assessing maximum potential liability that number drops to \$417,620.48.

81. Plaintiff determined that accepting a discount of the full amount was appropriate.

82. The calculations for the maximum potential value of the Rest Period claim are the

1 same as a meal premium is assessed at the same amount as a rest period premium.

2 83. Plaintiff assessed the full value of the rest period claim, without any discount, at
3 approximately \$1,044,051.20.

4 84. This assumes 5 rest period violations per workweek per Settlement Class Members.

5 85. If Plaintiff assumed there were two meal period violations per workweek per Class
6 Member for the purposes of assessing maximum potential liability that number drops to
7 \$417,620.48.

8 86. For the reasons above, Plaintiff determined that accepting a discount of the full
9 amount of the rest period claim was appropriate.

10 87. With regard to the reimbursement claim analysis, Plaintiff believed that it was
11 reasonable to value the potential reimbursement at \$25 per month, per Settlement Class Members,
12 for reimbursement of personal cell phone usage and any incurred mileage from driving personal
13 vehicle.

14 88. This brought the damages for this claim to \$30,650.00.

15 89. Plaintiff assessed the full value of the waiting time claim for penalties pursuant to
16 Labor Code §203 at \$1,360,022.40.

17 90. Considering the derivative nature of Labor Code §203 and the unresolved nature of
18 whether Section 203 penalties are available for alleged meal and rest period violations, Plaintiff
19 determined that accepting a significant discount on this claim was appropriate.

20 91. Plaintiff calculated the value of the PAGA claim at \$302,400.00 for Settlement
21 Class Members (using \$100 per pay period) for one alleged underlying Labor Code violation.

22 92. As the law is unsettled regarding whether PAGA penalties can be awarded for each
23 of the underlying Labor Code violations (i.e. “stacked”) for the purposes of assessing the
24 maximum penalty amount, Plaintiff calculated the exposure at one penalty of \$100 per person per
25 pay period.

26 93. If PAGA penalties can be stacked, then the maximum amount increases to
27 \$882,583.33.

28 94. The main risk taken into account with PAGA is the discretionary nature of the

1 penalty award.

2 95. A judge can award the statutory maximum of \$100 for the initial violation and \$200
3 thereafter or – in theory – one cent per wage statement.

4 96. While there is a dearth of available authority, in Plaintiff's view, were he to succeed
5 on any of the underlying Labor Code violations, it is not likely that a Judge would also award a
6 large amount of penalties of top of any damages recovered.

7 97. Per Plaintiff's assessment, the maximum potential value of all of Plaintiff's and the
8 Settlement Class Members' claims was approximately \$ \$4,361,358.13.

9 98. If the more conservative estimates are used with only two meal and rest period
10 violations per workweek and one PAGA penalty assessment, this maximum exposure drops
11 significantly to \$2,528,313.36.

12 99. As a result of the forgoing risks on the merits discussed extensively above, Class
13 Counsel believes the Gross Settlement Amount of \$700,000.00 is fair and reasonable.

14 100. As outlined above, Class Counsel conducted a thorough investigation into the facts
15 of the claims alleged. The agreement to settle did not occur until Class Counsel exchanged and
16 possessed sufficient information to make an informed judgement regarding the likelihood of
17 success on the merits and the results that could be obtained through further litigation.

18 **ATTORNEY COMPETENCE**

19 101. Kingsley & Kingsley is very experienced in prosecuting employment litigation, and
20 since 2000 we have focused a substantial percentage of our practice on complex wage, hour, and
21 working condition violations. My firm is extremely well-versed in class action litigation and has
22 diligently and aggressively pursued this action. Kingsley & Kingsley currently serves as class
23 counsel for dozens of pending class action lawsuits in Northern, Central, and Southern California.
24 Below is a small but representative sampling of wage and hour class cases handled by my firm:

25 a. *Goodman v. Crystal Ventures, Inc.* (No. BC245561, L.A. Super. Ct.) In January
26 2002, Hon. Anthony Mohr granted final approval of settlement in the gross amount
27 of \$255,000 and the court approved the attorneys' fee request of 33 1/3%.

28 b. *Daniel v. Network Management Corp.* (No. BC274004, L.A. Super. Ct.) In

September 2003, the court granted final approval of Settlement in the gross amount of \$475,000 and the court approved the attorneys' fee request of 30%.

c. *Johnston v. The Cheesecake Factory* (No. BC316180, L.A. Super. Ct.) In December 2005, Honorable Rita Miller granted final approval of Settlement in the gross amount of \$4,000,000 and the court granted attorneys' fees request of 30%.

d. *Tumino v. HOB Entertainment* (No. BC327962, L.A. Super. Ct.) In May 2006, the Honorable Conrad R. Aragon granted final approval of Settlement in the gross amount of \$1,000,000 and the court granted attorneys' fees request of 30%.

e. *Ryan v. Hilton Hotels Corporation*, (No. BC364260, L.A. Super. Ct.) In March 2008, the Honorable Mary Thornton House granted final approval of Settlement in the gross amount of \$1,675,000.00 and the court granted attorneys' fees request of 33 1/3%.

f. *Gerritson v. Styles For Less, Inc.*, (No. BC402921, L.A. Super. Ct.) In September 2010, the Hon. Kenneth R. Freeman granted final approval of Settlement in the gross amount of \$2,000,000.00, and the court granted attorneys' fees request of 33.3%.

g. *Lewis v. Collabrus, Inc., et al.*, (No. 109CV-142927, Santa Clara Super. Ct.) In March 2012, the Honorable James P. Kleinberg granted final approval of Settlement in the gross amount of \$2,000,000.00, and the court granted attorneys' fees request of 33.3%.

h. *Hirschinger v. Blue Cross of California*, Los Angeles Superior Court (No. BC402739, L.A. Super. Ct.) In June 2013, the Honorable Lee Smally Edmund granted final approval of Settlement in the gross amount of \$4,700,000.00, and the court granted attorneys' fees request of 38%.

i. *Anderson v. Total Renal Care, Inc.*, (No. BC388335, L.A. Super. Ct.) In January 2014, the Honorable William F. Highberger granted final approval of Settlement in the gross amount of \$1,500,000.00 and the court granted attorneys' fees request of 33.33%.

j. *Westbrook v. International Surfacing Systems*, (No. RG10510015, Alameda Super. Ct.) In August 2015, the Hon. Wynne Carvill granted final approval of Settlement in the gross amount of \$995,000.00, and the court granted attorney's fees request of 33.33%.

k. *Kane et al. v. Valley Slurry Seal*, (No. CV08-2483, Yolo Super. Ct.) In March 2016 after a class trial with a verdict in the class's favor, the Honorable Daniel P. Maguire, awarded Kingsley & Kingsley and co-counsel \$996,232.72 in attorney's fees.

l. *Aparacio v. Abercrombie & Fitch Stores, Inc.*, (No. BC499281, L.A. Super. Ct.) In June 2016, the Hon. Kenneth Freeman granted final approval of Settlement in the gross amount of \$2,000,000.00, and the court granted attorney's fees request of 33.33%.

m. *Pineda, et al. v. Grimmway Enterprises, Inc.*, (No. BCV-15-101333, Kern Super. Ct.) In January 2018, the Hon. Stephen D. Schuett granted final approval of Settlement in the gross amount of \$9,000,000 with attorneys' fees request of 33.33%.

102. Kingsley & Kingsley, APC filed its first motion for class certification in the year 2000 and since that time has been appointed class counsel on dozens of wage and hour class actions that have been approved for class certification. Since 2012, Kingsley & Kingsley, APC has moved for class certification in 15 matters and has successfully obtained class certification in 15 of those cases. A brief sampling of which includes:

a. *Melendrez v. JK Communications*, No. BC497692, (L.A. Super. Ct., filed December 19, 2012) (court granted contested class certification and appointed Kingsley & Kingsley class counsel).

b. *Amaro et al. v Gerawan Farming, Inc.*, No. 1:14-cv-00147-DAD-SAB (E.D. Cal., filed February 3, 2014) (court granted contested class certification and appointed Kingsley & Kingsley co-class counsel).

c. *Suarez v. Mazatlan, Inc.*, No. 37-2015-00002978-CU-OE-CTL (S.D. Super. Ct.,

1 filed January 27, 2015) (court granted contested class certification and appointed
2 Kingsley & Kingsley class counsel).

3 d. *Ruiz v. Daniel C. Salas Harvesting, Inc.*, Kings County Superior Court (16C0214).
4 contested class certification granted in June 2020.

5 e. *Weldon v. Geo Corrections & Detentions, LLC*, Kern County Superior Court
6 (BCV-16-102833), contested class certification granted in 2018.

7 f. *Patton v. Skyler Electric*, Nevada County Superior Court, (CU17-082544),
8 contested class certification granted in June 2020.

9 g. *Hameister v. Jaco Oil Company*, Kern County Superior Court (BCV-17-102876),
10 contested class certification granted in August 2020.

11 103. After factoring in the risks explained above, Class Counsel believes that the
12 proposed settlement is fair and reasonable.

13 104. There is no governmental participant in this action.

14 105. This allocation distributes Settlement Agreement funds proportionally to each class
15 member's potential damages and should therefore be approved as fair, adequate, and reasonable.

16 **ATTORNEYS' FEE AWARD**

17 106. As detailed fully in the Settlement and set forth above, the Settlement provides for
18 Defendant to create a Gross Settlement Amount of \$700,000.00. From that fund, Plaintiff requests
19 an award of attorneys' fees in the amount of \$233,333.33, or 1/3 of the Gross Settlement Amount
20 created on behalf of members of the Class.

21 107. Class Counsel extensively addressed the perceived risks in this case in the
22 concurrently filed Motion for Final Approval of Class Action Settlement and will not repeat that
23 analysis here. In addition to the complexity of this case, Class Counsel has borne the entire risk
24 and costs of this litigation during the entire time that it has been pending, all on a pure contingency
25 basis. Through the investment of substantial effort and resources, Class Counsel has secured an
26 outstanding Settlement of behalf of the Settlement Class Members. Defendant vigorously
27 contested liability, the amount of claimed damages, and the propriety of class certification. It is
28 this kind of situation, involving complex issues, that has been recognized as justifying a substantial

1 attorney fee award.

2 108. I am very familiar with the contingent fee market throughout California and in the
3 Santa Clara County area, particularly as it pertains to complex employment, wage and hour, and
4 class action litigation. On behalf of my firm, I have negotiated numerous contingency fee
5 agreements with plaintiffs, both as individuals and as representatives in class action suits. Many
6 of those agreements provided that counsel will receive a fee that is between 33% and 40% of any
7 recovery that is obtained, and, in addition, that counsel be reimbursed for the costs they incurred
8 out of the recovery amount. The Named Plaintiff in this action signed a contingency fee agreement
9 that stated that counsel would be able to make a fee of up to 40% of any recovery if the case settles.
10 These are typical and standard percentages in employment-related contingency agreements
11 throughout California. Indeed, in my opinion, the Class Members in this complex wage and hour
12 case could not have retained competent counsel in California, particularly with the considerable
13 skill and expertise of my firm, for any amount significantly less than the contingency fee
14 percentage provided in this retainer agreement. Class Counsel has never been paid any money for
15 attorneys' fees in this case and has advanced all costs.

16 109. There are always risks attendant to billing cases on a contingency basis. Those
17 risks are even higher in the current economic climate. Kingsley & Kingsley bills the vast majority
18 of its cases on contingency, and has been affected by recent bankruptcy filings. In three separate
19 cases, *Lozoya v. Shore House Café, Inc.*, No. 30-2008-00082103-CU-OE-CJC (Orange Super. Ct.
20 filed Mar. 7, 2008) and *Davis v. Crossfire Marketing Group, LLC*, No. CIVRS1207797 (San
21 Bernardino Super. Ct. filed October 5, 2012), the defendants both filed for bankruptcy protection
22 in June 2011 and January 2015 after years of litigation. My firm advanced costs and incurred
23 thousands of dollars in fees that will never be recovered.

24 110. Additionally, there are cases where Class Counsel takes on the extreme risk of
25 attempting to certify a class case, often times turning down class or individual settlement offers
26 that Class Counsel feels are not in the best interest of the class, only to lose class certification and
27 the costs and fees associated with the litigation. *See e.g., Prosad v. Del Taco Restaurant Services,*
28 *Inc.*, No. BC426538 (L.A. Super. Ct. filed Nov. 2009); *Perez v. Safelite Group, Inc.*, CV-10-8653-

1 RGK(FFMx) (C.D. Cal. filed October 5, 2010).

2 111. When Class Counsel's motions for class certification are denied, Class Counsel
3 often appeals the orders. Sometimes, these denials are overturned (*Perez v. Safelite Group, Inc.*,
4 553 Fed.Appx. 667 (9th Cir. 2015); *Anderson v. Total Renal Care, Inc.*, No. B236207 (Cal. Ct.
5 App. 2012)) and other times Class Counsel is unsuccessful (*Prosad v. Del Taco Restaurant*
6 *Services, Inc.*, No. B238605 (CA. Ct. App. 2012)).

7 112. In addition to appealing class certification denials, Kingsley & Kingsley has been
8 involved in numerous lengthy and protracted appeals process before the California Court of
9 Appeal, the Ninth Circuit, the Seventh Circuit, and the United States Supreme Court. Our firm
10 specifically has taken and lost some issues on appeal that required the write-off of significant legal
11 fees. Also, our firm has been successful on appeal and overturned unfavorable lower court rulings
12 or successfully fought to have successful rulings affirmed. Below is just a sample of some of these
13 appeals:

- 14 a. *D'Este v. Bayer Corp.*, 565 F.3d 1119 (9th Cir. 2009) (lower court ruling that
15 pharmaceutical sales representatives are exempt employees affirmed);
- 16 b. *Budrow v. Dave & Buster's of California, Inc.*, 171 Cal. App. 4th 875 (2009) (lower
17 court ruling in employer's favor that certain employees can share in mandatory tip
18 pool affirmed);
- 19 c. *Etheridge v. Reins Int'l California, Inc.*, 172 Cal. App. 4th 908 (2009) (lower court
20 ruling in employer's favor that certain employees can share in mandatory tip pool
21 affirmed);
- 22 d. *Areso v. CarMax, Inc.*, 195 Cal. App. 4th 996 (2011) (lower court ruling in
23 employer's favor approving employer's commission pay plan affirmed) ;
- 24 e. *Christopher v. SmithKline Beecham Corp.*, 132 S. Ct. 2156, 183 L. Ed. 2d 153
25 (2012) (lower court ruling that pharmaceutical sales representatives are exempt
26 employees affirmed);
- 27 f. *Schaefer-LaRose v. Eli Lilly & Co.*, 679 F.3d 560 (7th Cir. 2012) (lower court ruling
28 that pharmaceutical sales representatives are exempt employees affirmed);

- 1 g. *Fowler v. Carmax, Inc.*, No. B238426, 2013 WL 1208111 (Cal. Ct. App. Mar. 26,
2 2013), cert. granted, judgment vacated sub nom. *CarMax Auto Superstores*
3 *California, LLC v. Fowler*, 134 S. Ct. 1277, 188 L. Ed. 2d 290 (2014) (lower court
4 granted employer's motion to compel arbitration, Court of Appeal reversed, U.S.
5 Supreme Court affirmed lower court);
- 6 h. *Salazar v. Apple Am. Grp., LLC*, No. E059562, 2015 WL 314703 (Cal. Ct. App.
7 Jan. 26, 2015), review denied (Apr. 22, 2015), cert. denied, 136 S. Ct. 688, 193 L.
8 Ed. 2d 519 (2015) (lower court ruling in employee's favor on motion to compel
9 arbitration affirmed);
- 10 i. *Anaya v. J's Maint. Serv., Inc.*, No. B261662, 2016 WL 519867 (Cal. Ct. App. Feb.
11 9, 2016) (lower court ruling in employee's favor on motion to compel arbitration
12 affirmed);
- 13 j. *Cortez v. Doty Bros. Equipment Company, Inc.* (2017) 15 Cal.App.5th 1 (reversing
14 in part and affirming in part trial courts order compelling arbitration);
- 15 k. *Lopez v. Friant & Associates, L.L.C.* (2017) 15 Cal.App.5th 773 (reversing
16 summary judgement in favor of employer on wage statement claim);
- 17 l. *Kane v. Valley Slurry Seal Company*, Case No. C079558, Cal. Ct. App. May 8,
18 2018) (affirming judgement for employees after bench trial);
- 19 m. *Kim v. Reins International California*, Case No. S246911. Oral argument was held
20 before the California Supreme Court on January 6, 2020 and a decision was
21 published in March 2020.

22 113. Unlike plaintiffs' firms, which bear the risk of loss on contingency cases, defense
23 firms are able to bill their clients for time spent on a case. As verified by a survey conducted by
24 the National Law Journal nearly a decade ago, six California firms provided their hourly billing
25 rates and of the six firms, five regularly charged in excess of \$500 for their partners. In fact, four
26 of these firms charged as high as \$600, \$620, \$650 and up to \$850 per hour. These firms are located
27 in Orange County, Los Angeles County, San Francisco County, and San Diego County. This
28 survey is attached hereto as Exhibit 2.

1 114. While plaintiffs' firms strive to take on cases that are meritorious (for ethical as
2 well as monetary reasons), as this Court knows, many of these cases hinge on the decision of class
3 certification. Recently, there has been a renewed effort by defense counsel and/or their clients to
4 challenge these cases and to push back, especially on certification motions. In addition, many
5 novel legal issues have gone up on appeal, which has complicated the landscape for settlement.

6 **CLASS COUNSEL'S HOURS AND HOURLY RATES ARE REASONABLE**

7 115. Class Counsel's aggregate lodestar amounts to \$114,702.50 (without future
8 hours)¹, which represents 168.70 hours of attorney work on this litigation incurred from its
9 inception through the filing of Plaintiff's Motion for Final Approval.

10 116. As such, Class Counsel is asking for a multiplier of 2.03.

11 117. The amount of time spent on this case (over 168.70 hours), which culminated in a
12 very favorable proposed Settlement for the Settlement Class Members, is reasonable given the
13 complexity and novelty of the issues involved, the vigorous defense, the length and intensity of
14 the litigation, and the exceptional results obtained.

15 118. Class Counsel litigated this action with great efficiency in light of the amount of
16 work required to achieve the Settlement.

17 119. The requested hourly rates in this case range from \$400.00 per hour to \$900.00.

18 120. Class Counsel's hourly rates are fully supported by their experience and reputation
19 in handling complex employment litigation, including wage and hour class actions.

20 121. Mr. Kingsley is a 24-year attorney with expertise in wage and hour class action
21 lawsuits.

22 122. He has litigated several hundred such cases, including at the appellate level at the
23 U.S. Supreme Court, California Supreme Court, the Ninth Circuit, and the California Court of
24 Appeal.

25 123. He is also a prolific speaker at various seminars on employment law and has

26 ¹ Though Class Counsel will certainly continue to spend time working on this matter for tasks
27 such as preparing for and attending the final approval hearing, overseeing the administration
28 process, and communicating with Settlement Class Members, Plaintiff's Counsel are not
requesting approval of future hours.

1 contributed to legal publications on employment topics.

2 124. In light of the impending increase of experienced lawyers in specialized practice, I
3 believe that the hourly rates charged by my firm are fair and reasonable and are comparable to or
4 less than those charged by my colleagues in California and the national market for prosecuting or
5 defending class actions.

6 125. My office billed for the following four attorneys for work performed on this case:
7 Eric Kingsley, Shannen Garrett, David Penner, and me.

8 126. I am a partner at Kingsley & Kingsley, APC. I received my Bachelor of Arts
9 degree, *cum laude*, from the University of California San Diego and received my law degree from
10 UCLA School of Law in 2008, where I was active in the Women's Law Journal and community-
11 based legal clinics. I have been practicing since 2008 and am billed at \$650 per hour.

12 127. Shannen T. Garrett is an associate at Kingsley & Kingsley, APC. She received her
13 law degree from Loyola Law School in 2017. She is billed at \$475 per hour.

14 128. David Penner is a former associate of Kingsley & Kingsley, APC. He received his
15 B.A. from the University of Michigan and received his law degree from University of California,
16 Irvine School of Law in 2018. He left the firm in 2021 and was billed at \$400 per hour.

17 129. An article in the Wall Street Journal on February 9, 2016 titled *Legal Hours Cross*
18 *New Mark: \$1,500 an Hour* states that "a review of filings over the past three months in about two
19 dozen bankruptcy cases shows that senior partners routinely charge between \$1,200 and \$1,300 an
20 hour, with top rates at several large law firms exceeding \$1,400." The article also explains that
21 "despite low inflation and weak demand for legal services, rates at large corporate law firms have
22 risen by 3% to 4% a year since the economic downturn." Finally, the article notes that "the average
23 highest rate paid for law-firm partners was \$875 an hour in 2015." This article is attached hereto
24 as Exhibit 3.

25 130. Class Counsel's charged rates are commensurate with the prevailing market rates
26 in Santa Clara County for attorneys of comparable experience and skill handling complex
27 litigation.

28 131. Class Counsel's rates in calculating the lodestar are the same rates charged to non-

contingent hourly clients and thus necessarily reflect the current market value of counsel's legal services.

132. Class Counsel has made all reasonable attempts to avoid duplication of assignments and to assign tasks to timekeepers at the appropriate billing rates.

133. Finally, Class Counsel's rates are in line with the 2021-2022 Laffey Matrix, which is a fee scale that courts often consult in determining the reasonableness of hourly rates. Under the adjusted Laffey Matrix, a reasonable rate for an attorney with 20+ years of experience, such as Mr. Kingsley, is \$919, a reasonable rate for an attorney with 14 years of experience, such as Ms. Szamet, is \$764, a reasonable rate for an attorney with 5 years of experience, such as Ms. Garrett, is \$468, and a reasonable rate for an attorney with 3 or less years of experience, such as Mr. Penner, is \$381. A true and correct copy of the 2021-2022 Adjusted Laffey Matrix is attached hereto as Exhibit 4.

134. Kingsley & Kingsley's attorneys' fees in the present case are broken down as follows:

<u>ATTORNEY</u>	<u>HOURS</u>	<u>HOURLY RATE</u>	<u>TOTALS</u>
Eric B. Kingsley	29.90	\$900.00	\$26,910.00
Kelsey M. Szamet	126.90	\$650.00	\$82,485.00
Shannen T. Garrett	7.30	\$475.00	\$3,467.50
David Penner	4.60	\$400.00	\$1,840.00
KINGSLEY TOTAL			
ATTORNEYS' FEES	168.70		\$114,702.50²

135. Kingsley & Kingsley, APC has spent significant time extensively investigating, researching, and litigating this matter, including but not limited to the following:

- a. intake and interviewing Plaintiff and witnesses and flushing out facts and issues;
- b. researching employer and related causes of action;

² The Total Attorneys' Fees does not include Class Counsel anticipated 10-15 hours of future time to handle the final approval hearing in July and to oversee the administration process.

- c. researching other pending and former matters against Defendant;
- d. fact development and investigating Defendant's ownership structure
- e. researching and analyzing relevant claims under B&P 17200;
- f. investigation and discussion regarding job functions, duties, compensation, policies, and procedures, etc.;
- g. regular meetings and or communicating with the Named Plaintiff;
- h. regular meetings and or communicating with Co-Counsel;
- i. drafting pleadings (Complaints, Motion for Preliminary Approval, various documents related to Preliminary Approval, Motion for Final Approval, various documents related to Final approval, etc.);
- j. researching private right of action and various impact on class actions;
- k. interviewing and obtaining declarations from Class Members;
- l. preparing for and attending mediation;
- m. discussing issues related to damage model calculations;
- n. preparing and analyzing damage models;
- o. negotiating the terms of the settlement;
- p. reviewing and making changes to the Settlement Agreement;
- q. drafting and editing all documents for Preliminary and Final Approval;
- r. monitoring Notice and settlement administration procedures;
- s. coordinating and overseeing all aspects of the administration of the Settlement (review documentation, approve form and content, etc.); and multiple communications with defense counsel.

136. Based on the aggregate lodestar, Class Counsel is requesting a multiplier of 2.03.

137. I believe the request for attorneys' fees in the amount of \$233,333.33 is fair and reasonable given the complexity and novelty of the issues involved, the vigorous defense, and the exceptional results obtained. As explained above, Class Counsel's diligent litigation efforts and experience led to an outstanding settlement.

///

1 **FACTORS THAT SUPPORT THE APPROVAL OF A MULTIPLIER**

2 138. This case dealt with difficult legal and factual questions. Significantly, the risk
3 attendant to the underlying claims in this matter was great considering Defendant's defenses. As
4 discussed in detail in the extensive risk analysis section in Plaintiff's Motion for Preliminary
5 Approval of Settlement, were this case to proceed, Defendant would have a strong incentive to
6 litigate tenaciously. There are genuine issues in dispute.

7 139. Class Counsel are skilled wage and hour practitioners with decades of experience
8 who diligently prepared and litigated this matter as discussed.

9 140. To achieve the ultimate result in this case, Co-lead Class Counsel had to incur
10 substantial risk and expense and were precluded from taking other fee generating employment for
11 over 168.70 hours of attorney time.

12 141. This matter had been handled purely on a contingency fee basis and Class Counsel
13 have advanced many thousands of dollars in costs while deferring all payment of fees, with no
14 guarantee that any of the fees incurred or costs advanced would ever be recovered, and diverting
15 significant firm resources to prosecution of this matter.

16 142. Class Counsel believe this is an exceptional result that has been well received by
17 Settlement Class Members.

18 **ATTORNEY COSTS**

19 143. In addition to their request for fees, Class Counsel further request reimbursement
20 of the reasonable out-of-pocket expenses advanced and/or incurred by them in connection with
21 this litigation, in the amount of \$8,617.27.

22 144. To date, Kingsley and Kingsley has incurred \$8,017.27 in costs.

23 145. Class Counsel anticipates incurring an additional \$600.00 in costs to file, serve, and
24 copy this motion; to prepare for and attend the hearing; and for future copy charges.

25 146. As such, Class Counsel is requesting a cost reimbursement of \$8,617.27.

26 147. All of the requested costs are reasonable in amount and were necessarily incurred
27 by Class Counsel in prosecuting this litigation.

28 148. All of these costs have been incurred in the course of this litigation, and all costs

advanced have already been paid by Class Counsel.

THE NAMED PLAINTIFFS' ENHANCEMENT SHOULD BE APPROVED

149. Plaintiff's Counsel request an enhancement of \$5,000.00 to the Named Plaintiff CARLOS HUMBERTO CARRILLO DIAZ for his work on behalf of the Settlement Class.

150. The time spent by Carlos Humberto Carrillo Diaz is significant and includes researching and retaining competent counsel; providing information to Class Counsel regarding the nature of the work at Defendant; compiling relevant documents; working closely with Class Counsel to develop the theories of liability and martial relevant evidence; regularly discussing the status of the case with Class Counsel; discussing the case via telephone with many Settlement Class Members; and responding promptly to Class Counsel's communications regarding settlement.

151. As set forth in the Settlement, Plaintiff will also be entering into a general release of liability pursuant to Civil Code Section 1542.

152. Class Counsel considers this to be a fair and reasonable enhancement.

153. The enhancement takes into consideration the time, effort, and expense incurred by Mr. Diaz in coming forward to litigate this matter on behalf of all Settlement Class Members.

154. Additionally, the Named Plaintiff was at risk for paying for Defendant's legal fees and costs in the event that Defendant prevailed at trial.

155. Plaintiff Diaz was also at risk of for paying Defendant's legal fees and costs in the event that Defendant prevailed at trial.

156. The Class has benefited from Mr. Diaz's action in stepping forward on their behalf to bring this lawsuit.

157. Further, the Class Notice disclosed the enhancement award.

158. As of today, no Settlement Class Member has objected to the proposed enhancement.

159. Under the circumstances, a representative payment of \$5,000.00 is justified and the Court should award this payment to CARLOS HUMBERTO CARRILLO DIAZ from the Gross Settlement Amount as provided in the Settlement.

1 **PROOF OF SUBMISSION TO THE LABOR AND WORKFORCE DEVELOPMENT**

2 **AGENCY**

3 160. As indicated on the Proof of Service, Plaintiff's accompanying Motion for Final
4 Approval of Attorneys' Fees and Costs ("Motion") was uploaded to the Labor and Workforce
5 Development Agency's ("LWDA") website on the date this Motion was filed. Proof of submission
6 of Plaintiff's Motion, all related documents, and copy of the email from the LWDA confirming
7 receipt is attached hereto as Exhibit "6".

8 **EXHIBITS**

9 161. Attached hereto as Exhibit "1" is a true and correct copy of the fully executed Joint
10 Stipulation of Class Action Settlement and Release of Claims that was preliminary approved by
11 this Court on February 11, 2022.

12 162. Attached hereto as Exhibit "2" is a true and correct copy of the First Amendment
13 to Joint Stipulation of Class Action Settlement and Release of Claims effective March 14, 2022.

14 163. Attached hereto as Exhibit "3" is a true and correct copy of the ALM Research
15 2007 NLJ Billing Survey.

16 164. Attached hereto as Exhibit "4" is a true and correct copy of Wall Street Journal on
17 February 9, 2016 titled *Legal Hours Cross New Mark: \$1,500 an Hour*.

18 165. Attached hereto as Exhibit "5" is a true and correct copy of the 2021-2022 Adjusted
19 Laffey Matrix.

20 166. Attached hereto as Exhibit "6" is a true and correct copy of the Kingsley &
21 Kingsley, APC costs ledger reflecting costs incurred in this matter.

22 167. Attached hereto as Exhibit "7" is a true and correct copy of the proof of submission
23 to the LWDA as referenced in paragraph 160 above.

24 I declare under penalty of perjury under the laws of the state of California that foregoing
25 is true and correct.

26 This declaration was executed this 17th day of May, 2022, in Altadena, California.

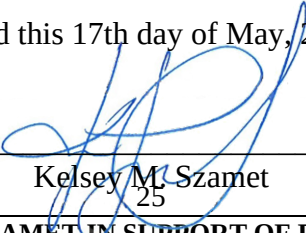
27
28 
Kelsey M. Szamet

EXHIBIT "1"

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Attorneys for Plaintiff and the Proposed Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

CARLOS HUMBERTO CARRILLO DIAZ
an individual, on behalf of himself and others
similarly situated

PLAINTIFF,

v.

RECON360, LLC; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

CASE NO. 20CV370603

[Case Assigned for All Purposes to Hon.
Sunil R. Kulkarni in Dept. 1]

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT AND RELEASE
OF CLAIMS**

1 This Joint Stipulation of Class Action Settlement and Release of Claims is entered into by
2 and between Plaintiff CARLOS HUMBERTO CARRILLO DIAZ, individually and on behalf of
3 the Settlement Class and the State of California, as a private attorney general, on the one hand, and
4 Defendant RECON360, LLC on the other hand.

5 This Joint Stipulation of Class Action Settlement and Release of Claims shall be binding
6 on Plaintiff, the current and former employees s/he seeks to represent, the Settlement Class, and
7 on Defendant and subject to the definitions, recitals, and terms set forth herein and the approval of
8 the Court.

9 **I. DEFINITIONS**

10 **1. Action**

11 “Action” or “Lawsuit” means the civil action filed in the Superior Court of the State of
12 California for the County of Santa Clara, entitled CARLOS HUMBERTO CARRILLO DIAZ, an
13 individual, on behalf of himself and others similarly situated, Plaintiff v. RECON360, LLC, and
14 Does 1 thru 50, inclusive, Defendants, Case No. 20CV370603, filed on September 22, 2020.

15 **2. Class Counsel**

16 “Class Counsel” means Kingsley & Kingsley, APC, who, subject to Court approval, shall
17 act as counsel for the Settlement Class.

18 **3. Class Counsel Award**

19 “Class Counsel Award” means attorneys’ fees for Class Counsel’s litigation and resolution
20 of this Lawsuit, and Class Counsel’s expenses and legal costs incurred in connection with this
21 Lawsuit.

22 **4. Class Information**

23 “Class Information” or “Class Data” means information regarding Settlement Class
24 members that Defendant will in good faith compile from their records and provide to the
25 Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include:
26 each Settlement Class Member’s full name; last known address; last known home telephone
27 number; last four digits of social security number; dates of employment, and Compensable Work
28 Weeks.

1 **5. Class Members or Settlement Class Members**

2 “Class Members” or “Settlement Class Members” means all persons who are employed or
3 have been employed as hourly, non-exempt employees by RECON360, LLC, in the State of
4 California during the Covered Period.

5 **6. Covered Period or Release Period**

6 “Covered Period” or “Release Period” means the period from September 22, 2016 to July
7 30, 2021.

8 **7. Named Plaintiff**

9 “Named Plaintiff” means Plaintiff CARLOS HUMBERTO CARRILLO DIAZ.

10 **8. Named Plaintiff Enhancement Award**

11 “Named Plaintiff Enhancement Award” means the amount that the Court authorizes to be
12 paid to Plaintiff, in addition to Plaintiff’s Individual Settlement Amount, in recognition of
13 Plaintiff’s efforts and risks in assisting with the prosecution of the Lawsuit and in return for
14 executing a general release with Defendant.

15 **9. Compensable Work Weeks**

16 “Compensable Work Weeks” means an estimate of the number of weeks in which
17 Settlement Class Member(s) performed work for Defendant in the State of California, excluding
18 vacation, leaves of absence, or any gaps in employment, during the Covered Period based on
19 Defendant’s records.

20 **10. Complaint**

21 “Complaint” means the operative complaint, filed in the Action.

22 **11. Court**

23 “Court” means the Superior Court for the County of Santa Clara, State of California.

24 **12. Defendant**

25 “Defendant” means Defendant RECON360, LLC.

26 **13. Effective Date**

27 “Effective Date” of the Settlement means the date on which the Court’s order granting
28 Final Approval of this Joint Stipulation becomes final. Such order becomes final upon the

1 following events: (i) upon the Court issuing the Final Approval Order granting approval of this
2 Settlement Agreement if no objections to the settlement are filed, or if an objection is filed but is
3 withdrawn prior to the Court's Final Approval Hearing; or (ii) in the event there are written
4 objections filed prior to the final approval hearing which are not thereafter withdrawn prior to the
5 hearing, the later of the following events: (a) the day after the last day by which a notice of appeal
6 of the order may be timely filed with the California Court of Appeal, and none is filed; (b) if an
7 appeal is filed and is finally disposed of by ruling, dismissal, denial, or otherwise, the day after the
8 last date for filing a request for further review of the Court of Appeal's decision passes and no
9 further review is requested; (c) if an appeal is filed and there is a final disposition by ruling,
10 dismissal, denial, or otherwise by the Court of Appeal, and further review of the Court of Appeal's
11 decision is requested, the day after the request for review is denied with prejudice and/or no further
12 review of the order can be requested; or (d) if review is accepted, the day the Supreme Court of
13 the State of California affirms the Settlement.

14 **14. Final Approval Hearing**

15 "Final Approval Hearing" means the final hearing held to ascertain the fairness,
16 reasonableness, and adequacy of the Settlement.

17 **15. Final Approval Order**

18 "Final Approval Order" means the proposed order granting final approval of the Parties'
19 settlement, in a form substantially similar to the order attached hereto as Exhibit C.

20 **16. Final Judgment**

21 "Final Judgment" means a judgment issued by the Court approving this Agreement as
22 binding upon the Parties. The Final Judgment shall constitute a judgment respecting the Parties
23 within the meaning and for purposes of California Code of Civil Procedure sections 577, 581d,
24 and 904.1(a), and on the PAGA claims for purposes of enforcing the rule announced in *Arias v.*
25 *Superior Court*, 46 Cal. 4th 969 (2009).

26 **17. Individual Settlement Amount**

27 "Individual Settlement Amount" means the amount paid from the Net Settlement Amount
28 to a Class Member, based upon his/her Compensable Work Weeks.

1 **18. LWDA**

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

3 **19. Net Settlement Amount**

4 “Net Settlement Amount” means the Gross Settlement Amount, less Court-approved Class
5 Counsel Award, Named Plaintiff Enhancement Award, payment to the LWDA, and Settlement
6 Administration Costs.

7 **20. Notice of Class Action Settlement**

8 “Notice of Class Action Settlement” means the Notice of Pendency of Class Action
9 Settlement and Hearing Date for Court Approval substantially in the form attached hereto as
10 Exhibit A, which shall include an approximation of each Settlement Class Member’s anticipated
11 Individual Settlement Amount. It is the notice approved by the Parties and subject to Court
12 approval explaining the terms of this Agreement and the settlement process, which the Settlement
13 Administrator will mail to each Settlement Class Member.

14 **21. PAGA**

15 “PAGA” refers to the Labor Code Private Attorneys General Act of 2004, codified at Labor
16 Code §§ 2699 et seq.

17 **22. PAGA Payment**

18 “PAGA Payment” means the payment made hereunder to the LWDA pursuant to PAGA.

19 **23. PAGA Period**

20 “PAGA Period” means the period from September 22, 2019 to July 30, 2021.

21 **24. Class Members**

22 “Class Members” or “Settlement Class Members” means those Class Members who did
23 not file a valid and timely Request for Exclusion pursuant to section III, paragraph 11 of this
24 Agreement.

25 **25. Parties**

26 “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean either
27 Plaintiff or Defendant, individually.

28 **26. Payment Ratio**

1 “Payment Ratio” means the respective Compensable Work Weeks during which an
2 employee worked, in proportion to the aggregate number of workweeks worked by all Settlement
3 Class members.

4 **27. Plaintiff**

5 “Plaintiff” means Plaintiff CARLOS HUMBERTO CARRILLO DIAZ.

6 **28. Preliminary Approval Date**

7 “Preliminary Approval Date” means the date on which the Court issues an order granting
8 preliminary approval of the proposed settlement in a form substantially similar to the order
9 attached hereto as Exhibit B.

10 **29. Released Claims**

11 “Released Claims” means any and all claims, debts, liabilities, demands, obligations,
12 penalties, guarantees, costs, expenses, attorney’s fees, damages, action or causes of action of
13 whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged, or
14 that reasonably could have arisen out of the same facts alleged in the Action, including, but not
15 limited to: (1) Failure to Provide Meal Breaks Pursuant to Labor Code §§ 226.7 and 512; (2)
16 Failure to Provide Rest Breaks Pursuant to Labor Code §§ 226.7; (3) Failure to Reimburse
17 Expenses Pursuant to Labor Code § 2802; (4) Penalties Pursuant to Labor Code § 203; (5)
18 Violation of Business & Professions Code § 17200; (6) Penalties Pursuant to Labor Code §2699,
19 et seq. (“PAGA”).

20 **30. Released Parties**

21 “Released Parties” means Defendant and any of its former and present parents,
22 subsidiaries, affiliates, officers, directors, employees, partners, shareholders, attorneys, agents,
23 successors, predecessors, assigns, or legal representatives.

24 **31. Request for Exclusion**

25 “Request for Exclusion” means a letter setting forth a Class Member’s name, present
26 address, and a simple statement electing to be excluded from the Settlement.

27 **32. Response Deadline**

28 “Response Deadline” means the date sixty (60) days after the Settlement Administrator

1 mails the Notice of Class Action Settlement to Settlement Class members, which is the last date
2 on which Settlement Class members may: (a) submit a Request for Exclusion; (b) file and serve
3 objections to the settlement; or (c) dispute the information contained in the Notice of Class Action
4 Settlement.

5 **33. Settlement**

6 “Settlement” or “Settlement Agreement” means the disposition of the Lawsuit pursuant to
7 this Joint Stipulation of Class Action Settlement and Release of Claims.

8 **34. Settlement Administrator**

9 “Settlement Administrator” means the third-party company that the Parties have selected
10 to be responsible for administering the Settlement. This Settlement Administrator is ILYM Group,
11 Inc.

12 **35. Settlement Administrator Costs**

13 “Settlement Administrator Costs” means the amount to be paid to the Settlement
14 Administrator from the Gross Settlement Amount for administration of this Settlement. The
15 estimated Settlement Administrator Costs are \$15,000.

16 **36. Gross Settlement Amount**

17 “Gross Settlement Amount” means the agreed upon settlement amount totaling
18 \$700,000.00 to be paid by Defendant in full settlement of the Released Claims, and includes
19 without limitation the Class Counsel Award, Named Plaintiff Enhancement Award, Individual
20 Settlement Amounts, PAGA Payment, and Settlement Administrator Costs.

21 **II. RECITALS**

22 **1. Class Certification.**

23 The Parties stipulate to class certification for purposes of settlement only. If the Court does
24 not grant either preliminary or final approval of this Settlement, the Parties agree that this
25 stipulation regarding class certification will be revoked and the Parties will return to a point in
26 litigation prior to the execution of this Agreement.

27 **2. Procedural History.**

28 On September 22, 2020, Plaintiff filed a Class Action Complaint and a notice with

1 California's Labor and Workforce Development Agency ("LWDA") regarding his intent to file an
2 action seeking civil penalties under PAGA. On November 30, 2020, Plaintiff filed a First
3 Amended Complaint ("FAC"), adding the PAGA claim based on the facts previously alleged in
4 the Complaint.

5 The operative Complaint alleges claims for: (1) Failure to Provide Meal Breaks Pursuant
6 to Labor Code §§ 226.7 and 512; (2) Failure to Provide Rest Breaks Pursuant to Labor Code §§
7 226.7; (3) Failure to Reimburse Expenses Pursuant to Labor Code § 2802; (4) Penalties Pursuant
8 to Labor Code § 203; (5) Violation of Business & Professions Code § 17200; and (6) Penalties
9 Pursuant to Labor Code § 2699, et seq. ("PAGA").

10 After the matter was at issue, the Parties began to engage in informal discovery to
11 understand the nature of the allegations and the scope of potential liability. Defendant provided
12 Plaintiff's counsel with pertinent data for the Class Members so that the Parties could fully-
13 investigate the claims at issue and understand their strengths and weaknesses.

14 On May 13, 2021, the Parties attended a full-day mediation with experienced mediator
15 Hon. Judge Jacobs-May. With the assistance of the mediator, the Parties reached a settlement, as
16 provided herein, to settle Plaintiff's claims on a class-wide basis.

17 Defendant denies any liability or wrongdoing of any kind associated with the claims
18 asserted in Plaintiff's Complaint, disputes the damages and penalties claimed by Plaintiff, and
19 further contends that, for any purpose other than settlement, Plaintiff's claims are not appropriate
20 for class or representative action treatment. This Stipulation is a compromise of disputed claims.
21 Nothing contained in this Stipulation, no documents referred to herein, and no action taken to carry
22 out this Stipulation, shall be construed or used as an admission by or against Defendant as to the
23 merits or lack thereof of the claims asserted in this Lawsuit. Defendant contends, among other
24 things, that, at all times, it has complied with all applicable state, federal and local laws related to
25 the Settlement Class members' employment.

26 The Named Plaintiff is represented by Class Counsel. Class Counsel conducted an
27 investigation into the facts relevant to the Lawsuit, including reviewing documents and
28 information provided by Defendant. Based on their own independent investigation and evaluation,

1 Class Counsel is of the opinion that the Settlement with Defendant is fair, reasonable and adequate,
2 and in the best interest of the Settlement Class in light of all known facts and circumstances,
3 including the risks of significant delay, defenses asserted by Defendant, uncertainties regarding a
4 class and representative action trial on the merits, and numerous potential appellate issues.
5 Although Defendant denies any liability, Defendant is agreeing to this Settlement solely to avoid
6 the cost of further litigation. Accordingly, the Parties and their counsel desire to fully, finally, and
7 forever settle, compromise and discharge all disputes and claims arising from or relating to the
8 Actions on the terms set forth herein.

9 **3. Benefits of Settlement to Class Members.**

10 Plaintiff and Class Counsel recognize the expense and length of continued proceedings
11 necessary to litigate their disputes through trial and through any possible appeals. Plaintiff has
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. Plaintiff and Class Counsel are also aware of
14 the burdens of proof necessary to establish liability for the claims asserted in the Lawsuit, both
15 generally and in response to Defendant's defenses thereto, and the difficulties in establishing
16 damages for the Settlement Class members. Plaintiff and Class Counsel have also taken into
17 account Defendant's agreement to enter into a settlement that confers substantial relief upon the
18 members of the Settlement Class. Based on the foregoing, Class Counsel have concluded that
19 settlement for the consideration and on the terms set forth in this Settlement Agreement, is fair,
20 reasonable, and adequate and is in the best interest of the putative class in light of all known facts
21 and circumstances, including the risk of significant delay, defenses asserted by Defendant,
22 Defendant's financial condition, numerous potential appellate issues, and other risks inherent in
23 litigation.

24 **4. Defendant's Reasons for Settlement.**

25 Defendant has concluded that any further defense of this litigation would be protracted and
26 expensive for all Parties. Substantial amounts of Defendant's time, energy, and resources have
27 been and, unless this Settlement is completed, will continue to be devoted to, the defense of the
28 claims asserted by Plaintiff and Settlement Class members. Defendant has also taken into account

1 the risks of further litigation in reaching its decision to enter into this Settlement. Even though
2 Defendant continues to contend that it is not liable for any of the claims set forth by Plaintiff in
3 this Lawsuit, Defendant has agreed, nonetheless, to settle in the manner and upon the terms set
4 forth in this Agreement to put to rest the claims in this Lawsuit. Defendant contends that it has
5 complied with all applicable state, federal, and local laws.

6 **5. Settlement of Disputed Claims.**

7 This Agreement is a compromise of disputed claims. Defendant has claimed and continues
8 to claim that the Released Claims have no merit and do not give rise to liability. Settlement Class
9 members have claimed and continue to claim that the Released Claims have merit and give rise to
10 liability on the part of Defendant. This Agreement is a compromise of disputed claims. Nothing
11 contained in this Agreement, no documents referred to herein, and no action taken to carry out this
12 Agreement, may be construed or used as an admission by or against the Settlement Class members
13 or Class Counsel as to the merits or lack thereof of the claims asserted in this Lawsuit.

14 **III. TERMS OF AGREEMENT**

15 **1. Release as To All Class Members.**

16 As of the Effective Date, the Class Members, including Plaintiff, release the Released
17 Parties from the Released Claims for the Covered Period.

18 **2. Release of Claims by Plaintiff**

19 As of the Effective Date, Plaintiff releases the Released Parties from all of the Released
20 Claims during the Covered Period. Plaintiff, for himself and his heirs, successors and assigns,
21 further waives, releases, acquits and forever discharges the Released Parties from any and all
22 claims, actions, charges, complaints, grievances and causes of action, of whatever nature, whether
23 known or unknown, which exist or may exist on Plaintiff's behalf as of the date of this Agreement,
24 including, but not limited to, any and all tort claims, contract claims, wage claims, wrongful
25 termination claims, disability claims, benefit claims, public policy claims, retaliation claims,
26 statutory claims, personal injury claims, emotional distress claims, invasion of privacy claims,
27 defamation claims, fraud claims, quantum meruit claims, and any and all claims arising under any
28 federal, state or other governmental statute, law, regulation or ordinance, including, but not limited

1 to, claims for violation of the FLSA, the California Labor Code, the Wage Orders of California's
2 Industrial Welfare Commission, other state wage and hour laws, the Americans with Disabilities
3 Act, the Age Discrimination in Employment Act (ADEA), the Employee Retirement Income
4 Security Act, Title VII of the Civil Rights Act of 1964, the California Fair Employment and
5 Housing Act, the California Family Rights Act, the Family Medical Leave Act, California's
6 Whistleblower Protection Act, California Business & Professions Code §§17200 et seq., and any
7 and all claims arising under any federal, state or other governmental statute, law, regulation or
8 ordinance.

9 Plaintiff's releases set forth herein include a waiver of all rights under California Civil
10 Code §1542, which provides:

11 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
12 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
13 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING**
14 **THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD**
HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH
THE DEBTOR OR RELEASED PARTY.

15 Plaintiff may hereafter discover claims or facts in addition to, or different from, those
16 which he now knows or believes to exist, but Plaintiff expressly agrees to fully, finally and forever
17 settle and release any and all claims against the Released Parties, known or unknown, suspected
18 or unsuspected, which exist or may exist on behalf of or against the other at the time of execution
19 of this Agreement, including, but not limited to, any and all claims relating to or arising from
20 Plaintiff's employment with Defendant.

21 **3. Tax Liability and Medicare.**

22 The Parties make no representations as to the tax treatment or legal effect of the payments
23 called for hereunder, and Settlement Class members are not relying on any statement or
24 representation by the Parties in this regard. Class Member' understand and agree that they will be
25 responsible for the payment of taxes and penalties assessed on the payments described herein and
26 will hold the Parties free and harmless from and against any claims resulting from treatment of
27 such payments as non-taxable damages, including the treatment of such payment as not subject to
28 withholding or deduction for payroll and employment taxes. Moreover, this Agreement is based

1 upon a good faith determination of the Parties to resolve a disputed claim. The Parties have not
2 shifted responsibility of medical treatment to Medicare in contravention of 42 U.S.C. Sec.
3 1395y(b), especially since this is strictly a wage and hour case. The Parties resolved this matter in
4 compliance with both state and federal law. The Parties made every effort to adequately protect
5 Medicare's interest and incorporate such into the settlement terms. Plaintiff warrants that he is not
6 a Medicare beneficiary as of the date of this Agreement. Because Plaintiff is not a Medicare
7 recipient as of the date of this Agreement, no conditional payments have been made by Medicare.

8 **4. Circular 230 Disclaimer.**

9 Each Party to this Agreement (for purposes of this section, the "acknowledging party" and
10 each Party to this Agreement other than the acknowledging party, an "other party") acknowledges
11 and agrees that (1) no provision of this Agreement, and no written communication or disclosure
12 between or among the Parties or their attorneys and other advisers, is or was intended to be, nor
13 shall any such communication or disclosure constitute or be construed or be relied upon as, tax
14 advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10,
15 as amended); (2) the acknowledging party (a) has relied exclusively upon his, her, or its own,
16 independent legal and tax counsel for advice (including tax advice) in connection with this
17 Agreement, (b) has not entered into this Agreement based upon the recommendation of any other
18 party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any
19 communication or disclosure by any attorney or advisor to any other party to avoid any tax penalty
20 that may be imposed on the acknowledging party; and (3) no attorney or advisor to any other party
21 has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax
22 strategies (regardless of whether such limitation is legally binding) upon disclosure by the
23 acknowledging party of the tax treatment or tax structure of any transaction, including any
24 transaction contemplated by this Agreement.

25 **5. Preliminary Approval of Settlement.**

26 Plaintiff will move the Court to grant preliminary approval of this Settlement, certifying
27 the Settlement Class for settlement purposes only and setting a date for a final approval hearing.
28 All Parties agree to work diligently and cooperatively to have this Settlement presented to the

1 Court for preliminary approval. The proposed preliminary approval order shall provide for the
2 Notice of Class Action Settlement to be sent to Settlement Class members as specified herein.

3 **6. Settlement Administrator.**

4 Upon the Court granting preliminary approval of this Agreement, Defendant shall provide
5 the Settlement Administrator with the Class Information for purposes of mailing the Notice of
6 Class Action Settlement to the Settlement Class members. No later than three (3) days after receipt
7 of the Class Information, the Settlement Administrator shall notify counsel for the Parties that the
8 list has been received and state the number of Settlement Class members.

9 **7. Notice by First Class U.S. Mail.**

10 Upon receipt of the Class Information, the Settlement Administrator will perform a search
11 based on the National Change of Address Database to update and correct any known or identifiable
12 address changes. Within fifteen (15) days of preliminary approval of this Settlement, the
13 Settlement Administrator shall mail copies of the Notice of Class Action Settlement to all
14 Settlement Class members via regular First-Class U.S. Mail. The Settlement Administrator shall
15 exercise its best judgment to determine the current mailing address for each Settlement Class
16 Member, including performing a skip-trace to identify any updated addresses. The address
17 identified by the Settlement Administrator as the current mailing address shall be presumed to be
18 the best mailing address for each Settlement Class Member.

19 **8. Undeliverable Notices.**

20 Any Notice of Class Action Settlement returned to the Settlement Administrator as
21 undeliverable on or before the Response Deadline shall be re-mailed once to the forwarding
22 address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall
23 promptly attempt to determine a correct address by use of skip-tracing, or other search using the
24 name, address and/or social security number of the Settlement Class Member whose notice was
25 undeliverable, and shall then re-mail all returned, undelivered mail within ten (10) days of
26 receiving notice that a notice was undeliverable. Settlement Class members who receive a re-
27 mailed Notice of Class Action Settlement shall have their Response Deadline extended twenty
28 (20) days from the original Response Deadline.

1 **9. Disputes Regarding Individual Settlement Amounts.**

2 Settlement Class members will have the opportunity, should they disagree with
3 Defendant's records regarding the dates of employment stated on their Notice of Class Action
4 Settlement, to provide documentation and/or an explanation to show contrary information by the
5 Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties
6 to determine whether an adjustment is warranted. The Settlement Administrator shall determine
7 the eligibility for, and the amounts of, any Individual Settlement Amounts under the terms of this
8 Agreement. The Settlement Administrator's determination of the eligibility for and amount of any
9 Individual Settlement Amount shall be binding upon the Settlement Class members and the Parties.
10 In the absence of circumstances indicating fraud, manipulation or destruction, Defendant's records
11 will be given a rebuttable presumption of accuracy.

12 **10. Disputes Regarding Administration of Settlement.**

13 Any disputes not resolved by the Settlement Administrator concerning the administration
14 of the Settlement will be resolved by the Court, under the laws of the State of California. Prior to
15 any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the
16 disputes without the necessity of involving the Court.

17 **11. Exclusions.**

18 The Notice of Class Action Settlement shall state that Settlement Class members who wish
19 to exclude themselves ("opt-out") from the Settlement must submit a Request for Exclusion by the
20 Response Deadline. The Request for Exclusion: (1) must contain the name, address, and telephone
21 number of the Settlement Class Member requesting exclusion; (2) must contain a statement
22 expressing that the Settlement Class Member elects to be excluded from the Settlement; (4) must
23 be signed by the Settlement Class Member; and (5) must be postmarked or fax stamped by the
24 Response Deadline and returned to the Settlement Administrator at the specified address or fax
25 number. The Request for Exclusion will be deemed invalid if it does not contain a Settlement
26 Class Member's name, address, telephone number, and signature. The date of the postmark on the
27 return mailing envelope or fax stamp on the Request for Exclusion shall be the exclusive means
28 used to determine whether a Request for Exclusion has been timely submitted. Any Settlement

1 Class Member who requests to be excluded from the Settlement Class will not be entitled to any
2 recovery under the Settlement and will not be bound by the terms of the Settlement or have any
3 right to object, appeal, or comment thereon. Settlement Class members who fail to submit a valid
4 and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms
5 of the Settlement and any Final Judgment entered in this Lawsuit if the Settlement is approved by
6 the Court. No later than seven (7) calendar days after the Response Deadline, the Settlement
7 Administrator shall provide counsel for the Parties with a complete list of all members of the
8 Settlement Class who have timely submitted a Request for Exclusion.

9 In the event more than 10 Settlement Class Members opt-out, Plaintiff will have the option
10 to decrease the Gross Settlement amount proportionately. If Plaintiff declines to do so, Defendant
11 will have the option to terminate the settlement in its entirety and the Parties will be returned to
12 their respective positions as if no settlement had been contemplated. Defendant shall not directly
13 or indirectly attempt to influence Settlement Class Members to opt-out.

14 **12. Objections.**

15 The Notice of Class Action Settlement shall state that Settlement Class members who wish
16 to object to the Settlement may do so in person at the Final Approval Hearing and/or in writing.
17 Any written objection (“Notice of Objection”) must be mailed to the Settlement Administrator by
18 the Response Deadline. The date of mailing on the envelope shall be deemed the exclusive means
19 for determining that a Notice of Objection was timely received. The Notice of Objection must be
20 signed by the Settlement Class Member and state: (1) the full name of the Settlement Class
21 Member; (2) the dates of employment of the Settlement Class Member; (3) the basis for the
22 objection; and (4) if the Settlement Class Member intends to appear at the final approval hearing.
23 Class Counsel will ensure that any Notice of Objection received by the Settlement Administrator
24 by the Response Deadline are filed with the Court along with the Motion for Final Approval. Either
25 of the Parties may file a responsive document to any objection before the Final Approval Hearing.
26 Any attorney who will represent an individual objecting to this Settlement who has not filed a
27 written objection must file a notice of appearance with the Court and serve Class Counsel and
28 counsel for Defendant no later than the Response Period Deadline. Class Counsel shall not

1 represent any Settlement Class members with respect to any such objections.

2 Any Class Member who fails to submit a timely written objection or to present an objection
3 in person at the Final Approval Hearing shall be deemed to have waived any objections and shall
4 be foreclosed from making any objection to the Settlement whether by appeal or otherwise.

5 **13. No Solicitation of Settlement Objections or Exclusions.**

6 The Parties agree to use their best efforts to carry out the terms of this Settlement. At no
7 time shall any of the Parties or their counsel seek to solicit or otherwise encourage Settlement
8 Class members to submit either written objections to the Settlement or requests for exclusion from
9 the Settlement, or to appeal from the Court's Final Judgment.

10 **14. Funding and Allocation of Gross Settlement Amount.**

11 No later than twenty (20) days after the Effective Date, Defendant shall provide the Gross
12 Settlement Amount to the Settlement Administrator to fund the Settlement, as set forth in this
13 Agreement. Defendant will not be obligated to make any payments contemplated by this
14 Agreement unless and until the Court enters the Final Approval Order and Final Judgment, and
15 after the Effective Date of the Agreement.

16 **15. Net Settlement Amount.**

17 The Net Settlement Amount will be determined by the Settlement Administrator by
18 subtracting the Class Counsel Award, Named Plaintiff Enhancement Award, PAGA Payment, and
19 Settlement Administrator Costs from the Gross Settlement Amount. The anticipated Net
20 Settlement Amount is \$411,666.67. The Parties estimate the amount of the Net Settlement Amount
21 as follows:

22 Gross Settlement Amount: \$ 700,000.00

23 Named Plaintiff Enhancement Award: \$ 5,000.00

24 Class Counsel Fees: \$ 233,333.33

25 Class Counsel Costs: \$ 10,000.00

26 PAGA Payment \$ 25,000.00

27 *(\$18,750.00 to the LWDA and \$6,250.00*
28 *to be distributed to eligible Settlement*

Class Members as discussed in
paragraph 26 below)

Settlement Administrator Costs: \$ 15,000.00

Net Settlement Amount \$ 411,666.67

This is a non-reversionary Settlement in which Defendant is required to pay the entire Gross Settlement Amount, which includes, the Class Counsel Award, Named Plaintiff Enhancement Award, Individual Settlement Amounts, PAGA Payment, and Settlement Administrator Costs. No portion of the Gross Settlement Amount will revert to Defendant. Defendant's share of payroll taxes and other required withholdings from Individual Settlement Amounts, including but not limited to Defendant's FICA and FUTA contributions, shall be paid separately from, and in addition to, the Gross Settlement Amount.

16. Individual Settlement Amounts.

Individual Settlement Amounts will be paid from the Net Settlement Amount and shall be paid pursuant to the settlement formula set forth herein. Individual Settlement Amounts shall be mailed by regular First-Class U.S. Mail to each Class Member's last known mailing address within seven calendar days after Defendant makes the final settlement payment. All Individual Settlement Amounts will be allocated as follows: thirty-three and one-third percent (33.33%) as wages, thirty-three and one-third percent (33.33%) as interest, and thirty-three and one-third percent (33.33%) as statutory penalties.

17. Class Member's Payment Ratio.

Class Members will be paid on a pro-rata basis. A Class Member's Individual Settlement Amount will be based on the number of Compensable Workweeks during which s/he worked in proportion to the aggregate number of workweeks worked by all Settlement Class members.

18. Payment to Class Member.

Checks shall be made payable to each Class Member for payment of each Class Member's Individual Settlement Amount as set forth in Paragraphs 16 and 17 of this Agreement.

19. Form of Payment to Class Member.

The Individual Settlement Amount due to each Class Member shall be paid in the form of

1 a check to each Class Member.

2 **20. Unclaimed Settlement Payment(s).**

3 After one hundred and eighty (180) days of the mailing of the Individual Settlement
4 Amount checks, funds attributable to unclaimed, undeliverable, or expired Individual Settlement
5 Amount checks will be transmitted to the State of California Office of the Controller Unclaimed
6 Property Fund in the name of the Class Member who did not cash his/her Settlement check. The
7 Parties agree to coordinate their efforts to seek Court approval for such an escheatment process of
8 uncashed funds. If, for some reason, the Court does not approve the escheatment of uncashed
9 funds, the Parties agree to proceed pursuant to California Code of Civil Procedure section 384,
10 distribute uncashed funds as described therein, and agree upon the non-profit Bet Tzedek Legal
11 Services as the cy pres designee pursuant to Code of Civil Procedure section 384(b)(3)(C).

12 **21. Named Plaintiff Enhancement Award.**

13 Plaintiff will request that the Court approve a Named Plaintiff Enhancement Award of up
14 to \$5,000.00. Subject to Court approval, in exchange for the release of all Released Claims and
15 for his time and effort in bringing and prosecuting this matter, Plaintiff shall be paid a Named
16 Plaintiff Enhancement Award of up to \$5,000.00. The Named Plaintiff Enhancement Award shall
17 be paid to Plaintiff from the Gross Settlement Amount within ten (10) calendar days after
18 Defendant makes the final settlement payment. The Settlement Administrator shall issue an IRS
19 Form 1099 – MISC to Plaintiff for his respective Named Plaintiff Enhancement Award. Plaintiff
20 shall be solely and legally responsible to pay any and all applicable taxes on his Named Plaintiff
21 Enhancement Award and shall hold harmless Defendant and Class Counsel from any claim or
22 liability for taxes, penalties, or interest arising as a result of the Named Plaintiff Enhancement
23 Award. The Named Plaintiff Enhancement Award shall be in addition to the Plaintiff's Individual
24 Settlement Amount as a Settlement Class Member. Any amount requested by Plaintiff for the
25 Named Plaintiff Enhancement Award and not granted by the Court shall return to the Net
26 Settlement Amount and be distributed to Class Members as provided in this Agreement.

27 **22. Class Counsel Award.**

28 Class Counsel will request that the Court approve attorneys' fees in the amount of up to

thirty-three and one-third percent (33.33%) (\$233,33.33) of the Gross Settlement Amount (\$700,000.00). Class Counsel will request that the Court approve the reimbursement of any litigation costs or expenses associated with Class Counsel's prosecution of this matter from the Gross Settlement Amount not to exceed \$10,000.00. So long as there are no objections, Class Counsel shall be paid any Court-approved fees and costs no later than ten (10) calendar days after Defendant makes the final settlement payment. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 – MISC to Class Counsel for the payments made pursuant to this paragraph. This Settlement is not contingent upon the Court awarding Class Counsel any particular amount in attorneys' fees and costs. Any amount requested by Class Counsel for the Class Counsel Award and not granted by the Court shall return to the Net Settlement Amount and be distributed to Class Members as provided in this Agreement.

23. Settlement Administrator Costs.

Up to \$15,000.00 of the Gross Settlement Amount shall be allocated for Settlement Administrator Costs. The Settlement Administrator shall have the authority and obligation to make payments, credits and disbursements to Settlement Class members in the manner set forth herein, calculated in accordance with the methodology set out in this Agreement and orders of the Court. The Parties agree to cooperate in the Settlement administration process and to make all reasonable efforts to control and minimize the cost and expenses incurred in administration of the Settlement.

24. Responsibilities of the Settlement Administrator.

The Settlement Administrator shall be responsible for the following: processing and mailing payments to Plaintiff, Class Counsel, and Class Members; printing, and mailing the Notice of Class Action Settlement and tax forms to the Class Members as directed by the Court; receiving and reporting the requests for exclusion and objections submitted by Settlement Class members; providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement; and other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities.

1 **25. Settlement Administrator Fees.**

2 The Settlement Administrator shall be paid the Settlement Administrator Costs within ten
3 (10) calendar days after Defendant makes the final settlement payment.

4 **26. Payment to the LWDA.**

5 A total payment of \$25,000.00 from the Gross Settlement Amount will be allocated as the
6 PAGA Payment to be paid as penalties under the Labor Code Private Attorneys General Act of
7 2004, to the LWDA. Seventy-five percent (75%) of the PAGA Payment will be paid to the LWDA
8 and the remaining twenty-five (25%) shall be distributed to eligible Settlement Class Members
9 who worked during the PAGA Period on a pro rata basis based on the number of pay periods.

10 **27. Final Approval Hearing and Entry of Final Judgment.**

11 Upon expiration of the Response Deadline, with the Court's permission, a final approval
12 hearing shall be conducted to determine final approval of the Settlement along with the amount
13 properly payable for: (i) the Class Counsel Award; (ii) the Named Plaintiff Enhancement Award;
14 (iii) Individual Settlement Amounts; (iv) the Settlement Administrator Costs; and (v) PAGA
15 Payment.

16 **28. Final Approval Order.**

17 Plaintiff will request, and Defendant will concur in said request, that the Court enter, after
18 the Final Approval Hearing, a Final Approval Order in the form attached hereto as Exhibit B.
19 Plaintiff will request that the Final Approval Order certify the Settlement Class; find that this
20 Agreement is fair, just, adequate, and in the best interests of the Class; and require the Parties to
21 carry out the provisions of this Agreement.

22 **29. Nullification of Settlement Agreement.**

23 In the event: (i) the Court denies preliminary approval of the Settlement; (ii) the Court
24 denies final approval of the Settlement; (iii) the Court refuses to enter a Final Judgement as
25 provided herein; or (iv) the Settlement does not become final for any other reason, this Settlement
26 Agreement shall be null and void and any order or judgement entered by the Court in furtherance
27 of this Settlement shall be treated as void from the beginning. To the extent the total number of
28 opt outs exceed 10%, Defendant has the option to nullify this settlement within ten (10) court days

of the last day of the response period via a written notice to Plaintiff's counsel. If one or more of such events occur causing the Settlement Agreement to become null and void, the Parties shall proceed in all respects as if this Agreement had not been executed, except that any fees already incurred by the Settlement Administrator shall be paid by the party terminating the Settlement or Defendant will be solely responsible for the costs incurred for the settlement administration should it exercise its' option to nullify this agreement. The return of any paid Settlement funds to Defendant shall occur no later than five (5) business days after one or more of the triggering events leading to nullification occurs. In the event an appeal is filed from the Court's Final Judgment, or any other appellate review is sought, administration of the Settlement shall be stayed pending final resolution of the appeal or other appellate review, but any fees incurred by the Settlement Administrator prior to it being notified of the filing of an appeal from the Court's Final Judgment, or any other appellate review, shall be paid to the Settlement Administrator by Defendant within thirty (30) days of said notification.

30. Increase in Class Members.

It was represented to Class Counsel that the Settlement Class is estimated to be 265 people. Upon receipt of the Class Data, the Settlement Administrator shall confirm to Plaintiff that the Class Data is consistent with these representations. To the extent the number of Settlement Class members increases beyond 265 by more than 5%, Defendant shall have the option to increase the Gross Settlement Amount by a proportionate amount. For example, if the number of pay periods increases by 7% then Defendant shall increase the GSA by 7%. Likewise, for example, if the number of Settlement Class members increases by 7%, Defendant shall increase the Gross Settlement Amount by 7%. If the increase causes an increase of the cost of Settlement Administration beyond the amount that has been approved by the Court, Defendant shall separately bear the increased cost of Settlement Administration outside of the Gross Settlement Amount. If Defendant fails to increase the Gross Settlement Amount proportionately or remit payment of the increased cost of Settlement Administration, Plaintiff shall have the right to terminate this Agreement and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

1 **31. No Effect on Employee Benefits.**

2 Amounts paid to Plaintiff or other Settlement Class members pursuant to this Agreement
3 shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for,
4 or calculation of, any of the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.)
5 of Plaintiff or Settlement Class members.

6 **32. No Admission by Defendant.**

7 Defendant denies any and all claims alleged in this Lawsuit and deny all wrongdoing
8 whatsoever. This Agreement is not a concession or admission, and shall not be used against
9 Defendant as an admission or indication with respect to any claim of any fault, concession, or
10 omission by Defendant.

11 **33. Exhibits and Headings.**

12 The terms of this Agreement include the terms set forth in any attached Exhibits, which are
13 incorporated by this reference as though fully set forth herein. Any Exhibits to this Agreement are
14 an integral part of the Settlement. The descriptive headings of any paragraphs or sections of this
15 Agreement are inserted for convenience of reference only and do not constitute a part of this
16 Agreement.

17 **34. Interim Stay of Proceedings.**

18 Upon full execution of this Agreement, the Parties agree that based upon Code of Civil
19 Procedure §583.310 (“the 5 year rule”), the Lawsuit shall be stayed in its entirety except for the
20 proceedings necessary to implement and complete the Settlement.

21 **35. Amendment or Modification.**

22 This Agreement may be amended or modified only by a written instrument signed by
23 counsel for all Parties or their successors-in-interest.

24 **36. Entire Agreement.**

25 Apart from the fully-executed Memorandum of Understanding, which the Parties
26 specifically agree to integrate herein, this Agreement and any attached Exhibits constitute the
27 entire Agreement among these Parties, and no oral or written representations, warranties, or
28 inducements have been made to any Party concerning this Agreement or its Exhibits other than

1 the representations, warranties, and covenants contained and memorialized in the Agreement and
2 its Exhibits. The Parties are entering in to this Agreement based solely on the representations and
3 warranties herein and not based on any promises, representation, and/or warranties not found
4 herein.

5 **37. 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 actions 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 persons signing this Agreement on behalf of
15 Defendant represent and warrant that they are authorized to sign this Agreement on behalf of
16 Defendant. Plaintiff represents and warrants that he is authorized to sign this Agreement and that
17 he does have not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

18 **38. Binding on Successors and Assigns.**

19 This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns
20 of the Parties hereto, as previously defined.

21 **39. California Law Governs.**

22 All terms of this Agreement and the Exhibit hereto shall be governed by and interpreted
23 according to the laws of the State of California.

24 **40. Counterparts.**

25 This Agreement may be executed in one or more counterparts. All executed counterparts
26 and each of them shall be deemed to be one and the same instrument.

27 **41. Jurisdiction of the Court.**

28 Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain

jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all orders and judgments entered in connection therewith. All terms of this Agreement are subject to approval by the Court.

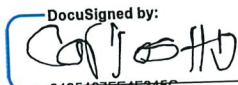
42. Invalidity of Any Provision.

Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

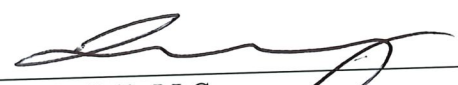
WHEREFORE, Plaintiff, on behalf of himself and the Settlement Class members, and Defendant has executed this Agreement as of the dates set forth below.

IT IS SO AGREED:

Dated: August 4, 2021

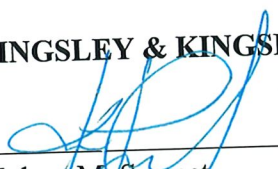
DocuSigned by:

9435467FE4F345C...
By: CARLOS HUMBERTO CARRILLO DIAZ

Dated: 8/18/21

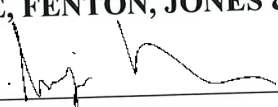

RECON360, LLC
By: General Contractor

APPROVED AS TO FORM AND CONTENT:

Dated: August 5, 2021

KINGSLEY & KINGSLEY APC

By: Kelsey M. Szamet
Attorneys for Plaintiff CARLOS HUMBERTO CARRILLO DIAZ and the Proposed Class

Dated: _____

HOGUE, FENTON, JONES & APPEL, INC.

By: Sarju Narah
Attorneys for Defendant RECON360, LLC

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EXHIBIT “A”

KINGSLEY & KINGSLEY, APC
ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleykingsley.com
KELSEY M. SZAMET, Esq. (SBN 260264)
16133 Ventura Blvd., Suite 1200
Encino, CA 91436
Tel: (818) 990-8300, Fax (818) 990-2903

DAVTYAN LAW FIRM, INC.
EMIL DAVTYAN, Esq. (SBN-299363)
emil@davtyanlaw.com
880 E. Broadway
Glendale, CA 91205
Tel: (818) 875-2008, Fax: (818) 722-3974

Attorneys for Plaintiff and the Proposed Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

CARLOS HUMBERTO CARRILLO DIAZ
an individual, on behalf of himself and others
similarly situated

PLAINTIFF,

v.

RECON360, LLC; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

CASE NO. 20CV370603

[Case Assigned for All Purposes to Hon.
Sunil R. Kulkarni in Dept. 1]

CLASS NOTICE

[CLASS MEMBER NAME]

CARLOS HUMBERTO CARRILLO DIAZ v. RECON360, LLC

**Superior Court of the State of California, County of Santa Clara
Case No. 20CV370603:**

If you are a current or former employee for RECON360, LLC (“RECON360, LLC” or “Defendant”), a class action lawsuit may affect your rights and you may be entitled to benefits under the settlement.

You are not being sued. A court authorized this notice. This is not a solicitation from a lawyer.

**PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT
INFORMATION ABOUT YOUR RIGHTS.**

- This lawsuit involves a class defined as:

“All persons who are employed or have been employed as an hourly, non-exempt employee by RECON360, LLC, in the State of California from September 22, 2016 to July 30, 2021.”
- You are receiving this Notice because the records reflect that you may be one of the above Class Members.
- Plaintiff in this class action alleges that Defendant failed to provide lawful meal and rest periods, failed to reimburse expenses, failed to pay lawful wages upon termination or resignation, engaged in unfair business practices, and is liable for penalties under California’s Private Attorneys General Act or “PAGA.” Defendant denies Plaintiff’s claims, and asserts that it has complied with all of its legal obligations to its employees.
- There has been a settlement that affects your rights. Although the Court has authorized the Parties to provide this notice of the proposed settlement, the Court has expressed no opinion on the merits of Plaintiff’s claims or ’s defenses.
- You will not be penalized or retaliated against by RECON360, LLC for participating in this class action settlement. If you are currently employed by RECON360, LLC, your employment will not be affected in any way. Current employees of RECON360, LLC who choose to participate in the settlement will not be required to resign and can continue to work for RECON360, LLC.
- You have several options available to you:

DO NOTHING	By doing nothing, you <u>will</u> receive a share of the settlement proceeds, and you will give up any rights to sue for claims pled or arising out of or reasonably related to the transactions and occurrences pled in the Complaint, which are or could be the basis of claims that Defendant failed to provide lawful meal and rest
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	periods; failed to reimburse expenses; failed to pay lawful wages upon termination or resignation; or engaged unfair business practices, or is subject to PAGA penalties during the Covered Period.
ASK TO BE EXCLUDED (OPT OUT)	Exclude yourself from this lawsuit. Keep your rights to file a separate claim against RECON360, LLC. If you ask to be excluded, you <u>will not</u> receive a share of the settlement proceeds, but you keep any rights you may have to bring your own suit against RECON360, LLC for the same legal claims in this lawsuit.
OBJECT	Object to the terms of this Settlement.

**Your options are explained in this notice.
To opt out or object, you must act by **XXXX**.**

1. Why did I get this notice?

A proposed settlement has been reached in a class action lawsuit that was brought on behalf of RECON360, LLCs' employees. You have received this notice because RECON360, LLC's records indicate that you are a member of this class.

2. What is this lawsuit about?

This lawsuit was filed on September 22, 2020 on behalf of all persons who are employed or have been employed as an hourly employee by RECON360, LLC in the State of California. The operative complaint alleges class-wide causes of action against RECON360, LLC for failure to provide lawful meal and rest periods under Labor Code §§ 226.7 and 512; failure to reimburse expenses pursuant to Labor Code §2802; failure to pay lawful wages upon termination or resignation under Labor Code § 203; and unfair business practices under Business & Professions Code § 17200 et seq.; and penalties under the Labor Code Private Attorneys General Act, Labor Code § 2698 et seq.

3. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiff's allegations or Defendant's defenses.

4. Why did this case settle?

The Parties reached a settlement in order to avoid the risk, inconvenience, and expense of further litigation. Plaintiff and his attorneys believe the proposed settlement is fair, adequate and in the best interest of the class members to whom it applies given the outcome of their investigation, the consumption of time and resources required in connection with further litigation, and the uncertainty in the law governing some of the claims presented. Although Defendant disputes Plaintiff's claims and asserts that it has complied with all of its legal obligations toward its

employees, Defendant has also concluded that further litigation would be protracted and expensive, and would also divert management and employee time.

5. What are the terms of the settlement and how much will I receive?

The Gross Settlement Amount is \$700,000.00. Under the proposed settlement, the following amounts will be deducted before any payments are made to employees, subject to final approval by the Court:

- Attorneys' fees: \$233,333.33
- Litigation Costs: \$10,000.00
- Settlement Administration Costs: \$15,000.00
- Named Plaintiff Enhancement Award to Named Plaintiff: \$5,000.00
- Penalties to the Labor & Workforce Development Agency: \$18,750.00

After these deductions, it is anticipated that \$411,666.67 will be available for payment to the Settlement Class members receiving this notice ("Net Settlement Amount").

Each Class Member's Individual Settlement Amounts shall be determined on a pro rata basis based upon the number of workweeks during which the employee worked in proportion to the aggregate number of workweeks by all Settlement Class members.

All Individual Settlement Amounts will be allocated as follows: 1/3 (33%) to settlement of wage claims, 1/3 (33%) to settlement of claims for interest, and 1/3 (33%) to settlement of claims for statutory penalties. There will be normal tax withholdings from the 1/3 portion of your Settlement Amount that is allocated to wage claims.

According to XXX's records, the total number of pay periods that you worked as an employee during the relevant time period is _____. If you disagree with this information and would like someone to look into the matter, please follow the procedure below. Based on these pay periods, your estimated settlement amount is _____.

6. What if I disagree with the number of pay periods shown above?

If you believe the information in the notice is incorrect regarding the number of pay periods, you will need to write a letter setting forth the number of pay periods that you believe are correct. You may attach any relevant documentation in support thereof. You must mail your letter to:

Settlement Administrator
c/o <<Name.of.Claims.Admin>>

You must submit such information by XXXX. Class Counsel and the Settlement Administrator will work together in good faith and do their best to promptly resolve the dispute based on available records. In the event they are unable to resolve any dispute under this Section, the Settlement Administrator shall review all information, material and documents and make a decision regarding the dispute.

7. What do I have to do to receive a share of the settlement?

However, it is advisable to confirm your current mailing address with the Settlement Administrator in order to ensure you receive your settlement share. You will be covered by the release summarized in Section 8, below.

8. What rights am I giving up?

The claims you will Release by doing nothing are: any and all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorney's fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged, or that reasonably could have arisen out of the same facts alleged in the Action, including: (1) Failure to Provide Meal Breaks Pursuant to Labor Code §§ 226.7 and 512; (2) Failure to Provide Rest Breaks Pursuant to Labor Code §§ 226.7; (3) Failure to Reimburse Expenses Pursuant to Labor Code § 2802; (4) Penalties Pursuant to Labor Code § 203; (5) Violation of Business & Professions Code § 17200; (6) Penalties Pursuant to Labor Code §2699, et seq. ("PAGA"). (collectively, the "Released Claims")

9. What if I do not wish to be involved?

Anyone not wishing to participate in the settlement may exclude himself or herself ("opt out") by completing, signing, and mailing a letter indicating that they do not want to participate in the settlement to the Settlement Administrator, <<Name.of.Claims.Admin>>, by XXXX.

Settlement Administrator
c/o <<Name.of.Claims.Admin>>

If your Request for Exclusion is postmarked after XXXX, it will be rejected, and you will be a Class Member and be bound by the settlement terms and release. Anyone who submits a timely and valid Request for Exclusion shall not be deemed a Class Member and will not receive any payment as part of this settlement. Such persons will keep any rights to sue RECON360, LLC separately about the claims made in this lawsuit.

10. What if I have an objection?

You may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing at your expense, either in person, telephonically, or through an attorney, provided you notify the Court of your intention to do so. All written objections, supporting papers and/or notices of intent to appear at the Final Approval Hearing must (a) clearly identify the case name and number ([*Carlos Humberto Carrillo Carrillo Diaz v. Recon360, LLC*], Case Number [20CV370603]), (b) be submitted to the Court either by mailing the objection to: Clerk of the Court, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, or by filing in person at the same location; (c) also be mailed to the law firms identified [Kingsley & Kingsley, APC, 16133 Ventura Blvd., Suite 1200, Encino, CA 91436, and HOGE, FENTON, JONES & APPEL, INC., 60 South Market Street, Suite 1400, San Jose, CA 95113.] and (d) be filed or postmarked on or before XXXXXX, 2021."

<u>Class Counsel:</u> Eric B. Kingsley, Esq. Kelsey M. Szamet, Esq.	<u>Counsel for RECON360, LLC</u> HOGE, FENTON, JONES & APPEL, INC. Sarju A. Naran, Esq.
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Kingsley & Kingsley, APC 16133 Ventura Blvd., Suite 1200 Encino, CA 91436 Telephone: (818) 990-8300 Fax: (818) 990-2903	Jenn M. Protas, Esq. Maysa Saeed, Esq. 60 South Market Street, Suite 1400 San Jose, CA 95113-2396 Telephone: (408) 287-9501 Facsimile: (408) 287-2583
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11. Do I need a lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. However, if you want your own lawyer, you are free to hire one at your own expense.

12. What happens next in the case?

The Settlement has only been preliminarily approved. The Court will hold a hearing in Dept. 1 of the Santa Clara County Superior Court, Santa Clara Courthouse, located at 191 N. First Street on _____, 2021, at XXXX on _____, 2021, at XXXX (Pacific Time), to consider any objections and determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs, Plaintiff's Enhancement Awards, and the costs of claims administration. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing, but you may appear in person.

13. How can I receive more information?

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Settlement Agreement, which is on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Superior Court of California, County of Santa Clara's Electronic Filing and Service Website at www.scefiling.org, or (b) in person at Records, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures, or you may contact Class Counsel or the Settlement Administrator. Finally, further information is also available at www.scscourt.org.

Please do not telephone the Court, the Office of the Clerk, or Recon 360's counsel for information regarding this settlement or the claim process.

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EXHIBIT “B”

KINGSLEY & KINGSLEY, APC
ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleykingsley.com
KELSEY M. SZAMET, Esq. (SBN 260264)
kelsey@kingsleykingsley.com
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Encino, CA 91436
Tel: (818) 990-8300, Fax (818) 990-2903

DAVTYAN LAW FIRM, INC.
EMIL DAVTYAN, Esq. (SBN-299363)
emil@davtyanlaw.com
880 E. Broadway
Glendale, CA 91205
Tel: (818) 875-2008, Fax: (818) 722-3974

Attorneys for Plaintiff and the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

CARLOS HUMBERTO CARRILLO DIAZ
an individual, on behalf of himself and
others similarly situated

PLAINTIFF,

v.

RECON360, LLC; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

CASE NO. 20CV370603

[Case Assigned for All Purposes to Hon.
Sunil R. Kulkarni in Dept. 1]

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: XX
Time: XX
Dept.: 1

Complaint Filed: September 22, 2020
FAC Filed: November 30, 2020
Trial Date: None Scheduled

1 The Motion for Preliminary Approval of the Joint Stipulation of Class Action Settlement
2 and Release of Claims (“Settlement Agreement”), a copy of which is attached as to the Declaration
3 of Kelsey M. Szamet as Exhibit “1”, came before this Court on XXXX. The Court, having
4 considered the papers submitted in support of the motion of the parties, **HEREBY ORDERS THE**
5 **FOLLOWING:**

6 1. The Court grants preliminary approval of the Settlement Agreement and the
7 Settlement Class based upon the terms set forth in the Settlement Agreement filed herewith. The
8 Settlement is fair, adequate, and reasonable to the Class. The Court finds that: (a) the Agreement
9 resulted from extensive arm’s length negotiations; and (b) the Agreement is sufficient to warrant
10 notice of the Settlement to persons in the Settlement Class and a full hearing on the final approval
11 of the Settlement.

12 2. Settlement “Class Member(s)” means: “All persons who are employed or have been
13 employed as an hourly employee by RECON360, LLC, in the State of California during the
14 Covered Period .”

15 3. The Covered Period is from September 22, 2016 to July 30, 2021.

16 4. The PAGA Period is September 22, 2019 to July 30, 2021.

17 5. The Settlement falls within the range of reasonableness and appears to be
18 presumptively valid, subject only to any objections that may be raised at the final fairness hearing
19 and final approval by this Court.

20 6. The Court makes the following preliminary findings for settlement purposes
21 only:

22 A. The Settlement Class, which consists of approximately 265 persons, is so
numerous that joinder of all members is impracticable;

23 B. There appear to be questions of law or fact common to the Settlement
24 Class for purposes of determining whether this Settlement should be
approved;

25 C. Plaintiff’s claims appear to be typical of the claims being resolved through
26 the proposed settlement;

27 D. Plaintiff appears to be capable of fairly and adequately protecting the
28 interests of the Settlement Class Members in connection with the proposed
settlement;

1 E. Common questions of law and fact appear to predominate over questions
2 affecting only individual persons in the Settlement Class. Accordingly,
3 the Settlement Class appears to be sufficiently cohesive to warrant
4 settlement by representation; and

5 F. Certification of the Settlement Class appears to be superior to other
6 available methods for the fair and efficient resolution of the claims of the
7 Settlement Class.

8 7. The Court approves, as to form and content, the Notice Packet to Class Members
9 in substantially the form attached to the Settlement Agreement as Exhibit A (Class Notice).

10 8. The Court approves the procedure for Class Members to object to the Settlement as
11 set forth in the Class Notice to Class Members.

12 9. The Court directs the mailing of the Notice Packet to Class Members by first class
13 mail to the Class Members in accordance with the Implementation Schedule set forth below. The
14 Court finds that the dates selected for the mailing and distribution of the Notice, as set forth in the
15 Implementation Schedule, meet the requirements of due process and provide the best notice
16 practicable under the circumstances and shall constitute due and sufficient notice to all persons
17 entitled thereto.

18 10. The Court confirms Eric B. Kingsley and Kelsey M. Szamet of Kingsley &
19 Kingsley, APC and Emil Davtyan of Davtyan Law Firm, Inc. as Class Counsel.

20 11. The Court confirms CARLOS HUMBERTO CARRILLO DIAZ as the Named
21 Plaintiff.

22 12. The Court approves <<Name.of.Claims.Admin>> as the Settlement Administrator.

23 13. The Court orders that pursuant to the California Private Attorneys General Act,
24 Labor Code §§ 2698, et seq. ("PAGA"), statutory notice of this Settlement has been and will
25 continue to be given to the Labor & Workforce Development Agency.

26 14. The Court orders the following Implementation Schedule for further proceedings:

27 a.	Preliminary Approval	XXXX
28 b.	Deadline for Defendant to Provide Class Data to Settlement Administrator.	20 business days from Preliminary Approval

c.	Mail Notice to Class Members	14 calendar days from Settlement Administrator's receipt of Class Data
d.	Deadline for Class Members to Postmark Any Exclusion	60 calendar days from mailing of Notice Packet (judged by postmark date)
e.	Deadline for Class Members to Postmark Any Objection	60 calendar days from mailing of Notice Packet (judged by postmark date)
f.	Deadline for Class Counsel to file Motion for Final Approval of Class Settlement	To be determined by the Court _____
g.	Deadline for Class Counsel to file Motion for Class Counsel Award	To be determined by the Court _____
h.	Final Approval Hearing	To be determined by the Court _____

15. IT IS FURTHER ORDERED that if the Court does not execute and file an Order of Final Approval and Judgment, or if the Effective Date of Settlement, as defined in the Settlement Agreement, does not occur for any reason, the Settlement Agreement and the proposed Settlement that is the subject of this Order shall become null, void, unenforceable and inadmissible in any judicial, administrative or arbitral proceeding for any purpose, and all evidence, court orders and proceedings had in connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the litigation, as more specifically set forth in the Settlement Agreement.

16. IT IS FURTHER ORDERED that, pending further Order of this Court, all proceedings in this matter except those contemplated herein and in the Settlement Agreement are hereby stayed.

17. The Court expressly reserves the right to adjourn or continue the Final Fairness Hearing from time to time without further notice to members of the Settlement Class.

DATED: _____

JUDGE OF THE SUPERIOR COURT

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EXHIBIT “C”

KINGSLEY & KINGSLEY, APC
ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleykingsley.com
KELSEY M. SZAMET, Esq. (SBN 260264)
kelsey@kingsleykingsley.com
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DAVTYAN LAW FIRM, INC.
EMIL DAVTYAN, Esq. (SBN-299363)
emil@davtyanlaw.com
880 E. Broadway
Glendale, CA 91205
Tel: (818) 875-2008, Fax: (818) 722-3974

Attorneys for Plaintiff and the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

CARLOS HUMBERTO CARRILLO DIAZ,
an individual, on behalf of himself and others
similarly situated,

PLAINTIFF,

v.

RECON360, LLC; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

CASE NO. 20CV370603

[Case Assigned for All Purposes to Hon.
Sunil R. Kulkarni in Dept. 1]]

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND ENTERING
JUDGMENT**

Date: XX

Time: XX

Dept.: 1

Complaint Filed: September 22, 2020

FAC Filed: November 30, 2020

Trial Date: None Scheduled

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 The above captioned Action is a class action lawsuit brought by Plaintiff CARLOS
3 HUMBERTO CARRILLO DIAZ (“Plaintiff”) against Defendant RECON360, LLC
4 (“Defendant”). The Motion for Final Approval of Class Action Settlement came before this Court
5 on XXXX.

6 **WHEREAS**, Judge Sunil R. Kulkarni granted preliminary approval of the Joint Stipulation
7 of Class Action Settlement and Release of Claims (“Settlement Agreement”), attached to the
8 concurrently-filed Declaration of Kelsey M. Szamet as Exhibit “1”, on XX.

9 **WHEREAS**, Plaintiff CARLOS HUMBERTO CARRILLO DIAZ has applied to the
10 Court for an order granting final approval of the Settlement Agreement.

11 **WHEREAS**, the Settlement Agreement sets forth the terms and conditions of the proposed
12 Settlement and for entry of an order of final approval and entry of final judgment thereon. The
13 Court having read and considered Plaintiff’s Motion for Final Approval of Class Action
14 Settlement; Motion for Approval of Approval of Attorneys’ Fees and Costs; the Declarations of
15 Kelsey M. Szamet, Carlos Humberto Carrillo Diaz, and XXXX of <<Name.of.Claims.Admin>>;
16 and the supporting documents annexed thereto, now finds:

17 **NOW THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED:**

18 1. The Court has personal jurisdiction over all Settlement Class Members and that the
19 Court has subject matter jurisdiction to approve the Settlement;

20 2. The terms of the Settlement are fair, just, reasonable, and adequate, consistent and
21 in compliance with California Code of Civil Procedure, the California and United States
22 Constitutions (including the due process clauses), the California Rules of Court and any other
23 applicable law, and in the best interest of each of the Parties and the Class members and is hereby
24 finally approved in all respects.

25 3. The Parties are hereby directed to perform the terms of the Settlement as described
26 in the Settlement Agreement according to its terms and provisions.

27 4. The Settlement Agreement is binding on Plaintiff and all other Settlement Class
28 Members, except those timely and properly filed Requests for Exclusions, as well as their heirs,

executors, and administrators, successors, and assigns.

5. There are XX (XX) valid requests for exclusion.

6. It is ordered that the Settlement Class is certified for settlement purposes only. The Court finds that an ascertainable class exists and a well-defined community of interest exists in the questions of law and fact involved because in the context of the Settlement: (i) there are questions of law and fact common to the Class Members which, as to the Settlement and all related matters, predominate over any individual questions; (ii) the Claims of Plaintiff are typical of the Claims of the Class members; and (iii) in negotiating, entering into and implementing the Settlement, Plaintiff and Plaintiff's Attorneys have fairly and adequately represented and protected the interest of the Class Members.

7. The Court finds that the Notice and notice methodology implemented pursuant to this Settlement (i) constituted the best practicable notice; (ii) constituted notice that was reasonably calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the Action, their right to object to or exclude themselves from the proposed Settlement and their right to appear at the Final Settlement Hearing; (iii) were reasonable and constituted due, adequate and sufficient notice to all persons entitled to receive notice; and (iv) met all applicable requirements of the California Code of Civil Procedure, the California and United States Constitution (including the Due Process Clause), the California Rules of Court and any other applicable law.

8. The Settlement Class is hereby made final. The Settlement Class is defined as: "All persons who are employed or have been employed as an hourly employee by RECON360, LLC, in the State of California during the Covered Period." ("Proposed Class").

9. The "Covered Period" or "Release Period" is the period of September 22, 2019 to July 30, 2021.

10. The Settlement Agreement is not an admission by Defendant, nor is this Final Order a finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Final Order, the Settlement, nor any document referred to herein, nor any action taken to carry out the Settlement, shall be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant.

1 11. Pursuant to the Settlement Agreement, upon entry of this Final Order, Plaintiff and
2 each Settlement Class Member shall fully release and discharge the Released Parties pursuant to
3 the following release, which provides:

4 any and all claims, debts, liabilities, demands, obligations, penalties,
5 guarantees, costs, expenses, attorney's fees, damages, action or
6 causes of action of whatever kind or nature, whether known or
7 unknown, contingent or accrued, that are alleged, or that reasonably
8 could have arisen out of the same facts alleged in the Action,
9 including: (1) Failure to Provide Meal Breaks Pursuant to Labor
10 Code §§ 226.7 and 512; (2) Failure to Provide Rest Breaks Pursuant
11 to Labor Code §§ 226.7; (3) Failure to Reimburse Expenses
12 Pursuant to Labor Code § 2802; (4) Penalties Pursuant to Labor
13 Code § 203; (5) Violation of Business & Professions Code § 17200;
14 (6) Penalties Pursuant to Labor Code §2699, et seq. ("PAGA").

15 12. Plaintiff and all Settlement Class Members who have not been timely and properly
16 excluded from the Settlement Class, and any person acting on their behalf, are permanently barred
17 and enjoined from: (i) filing, commencing, prosecuting, intervening in, participating in (as class
18 members or otherwise), or receiving any benefits or other relief from, any other lawsuit, in any
19 state or federal court, arbitration, or administrative, regulatory or other proceeding or order in any
20 jurisdiction based on the Released Claims; and (ii) organizing such non-excluded Class Members
21 into a separate class for purposes of pursuing as a purported class action (including by seeking to
22 amend a pending complaint to include class allegations, or by seeking class certification in a
23 pending action) any lawsuit based on or relating to the Released Claims;

24 13. The Settlement Agreement provides that the Gross Settlement Amount is seven
25 hundred thousand dollars and zero cents (\$700,000.00). The Net Settlement Amount shall be
26 determined according to the terms of the Settlement Agreement.

27 14. The Court orders the calculations and the payments to be made and administered in
28 accordance with the terms of the Settlement Agreement.

 15. The Court hereby finds that Plaintiff and Class Counsel adequately represented the
Settlement Class for purposes of entering into and implementing the settlement. The Court hereby
confirms Kingsley & Kingsley, APC and Emil Davtyan of Davtyan Law Firm, Inc. as Class
Counsel in the Action.

1 16. The Court hereby finds the unopposed application of Class Counsel for a costs and
2 attorneys' fees award provided for under the proposed Settlement to be fair and reasonable in light
3 of all the circumstances and is hereby granted. Of the Gross Settlement Amount, \$233,333.33
4 shall be paid for attorney fees and \$10,000.00 shall be paid for litigation costs.

5 17. The unopposed application of Class Counsel for an Enhancement Award is hereby
6 granted. Of the Gross Settlement Amount, a \$5,000.00 Enhancement Award shall be allocated to
7 Named Plaintiff CARLOS HUMBERTO CARRILLO DIAZ.

8 18. The unopposed application of Class Counsel for claims administration fees to
9 <<Name.of.Claims.Admin>> is hereby granted. Of the Gross Settlement Amount, \$15,000.00
10 shall be paid for settlement administration fees.

11 19. The Court approves the PAGA Penalties in the amount of \$25,000.00. The Court
12 approves 75% of the PAGA Penalties being allocated to the LWDA in the amount of \$18,750.00.
13 The Court further directs that the remining 25% of the PAGA Penalties, in the amount of \$6,250.00
14 shall be allocated to the eligible Settlement Class Members who worked during the PAGA period
15 on a per pay period, pro rata basis.

16 20. If a Settlement Class Member does not cash his or her settlement check within 180
17 days, the uncashed funds shall be transmitted by the Settlement Administrator to the non-profit
18 Bet Tzedek pursuant to Cal. Code Civ. Proc. section 384(b)(3)(C). The Court finds there is a
19 strong nexus between the mission of Bet Tzedek and the interests of the Settlement Class members.

20 21. Defendant shall have no further liability for costs, expenses, interest, attorneys'
21 fees, or for any other charge, expense, or liability, except as provided for in the Settlement
22 Agreement.

23 22. The Parties, are authorized, without further approval from the Court, to agree to
24 and to adopt such amendments, modifications and expansions of this Stipulation and all exhibits
25 attached hereto as (i) are consistent with the Final Judgment; and (ii) do not limit the rights of
26 Settlement Class Members under the Stipulation.

27 23. Pursuant to California Rule of Court Rule 3.769(h) and C.C.P. §664.4, the Court
28 shall retain continuing jurisdiction over the Actions, the Parties, and the Settlement Class, as well

1 as the administration and enforcement of the terms of the Settlement of this action to enforce the
2 terms of the judgment. Without affecting the finality of the Final Judgment, the Court shall retain
3 continuing jurisdiction over the Actions, the Parties, and the Settlement Class, as well as the
4 administration and enforcement of the Settlement. Any disputes or controversies arising with
5 respect to the interpretation, consummation, enforcement, or implementation of the Settlement
6 shall be presented by motion to the Court; provided however, that nothing in this Part shall restrict
7 the ability of the Parties to exercise their rights to terminate the Settlement pursuant to the terms
8 of the Settlement Agreement.

9 24. This Final Order shall constitute a final judgment.

10 25. The Court hereby dismisses the action (including all individual claims and Released
11 Claims presented thereby) with prejudice, without fees or costs to any party except as provided in
12 the Settlement Agreement.

13
14 **DATED:** _____

JUDGE OF THE SUPERIOR COURT

EXHIBIT "2"

Sarju A. Naran (SBN 215410)
sarju.naran@hoge fenton.com
Maysa Saeed (SBN 323609)
maysa.saeed@hoge fenton.com
HOGE, FENTON, JONES & APPEL, INC.
55 South Market Street, Suite 900
San Jose, California 95113-2324
Phone: 408.287.9501
Fax: 408.287.2583

Attorneys for Defendant, RECON360, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA, DOWNTOWN COURTHOUSE

CARLOS HUMBERTO CARRILLO DIAZ,
an individual, on behalf of himself and
others similarly situated,

Plaintiff,

v.

RECON360, LLC; and DOES 1 thru 50,
inclusive,

Defendants.

Case No. 20CV370603

**FIRST AMENDMENT TO JOINT
STIPULATION OF CLASS ACTION
SETTLEMENT OF RELEASE OF
CLAIMS**

*Assigned for All Purposes to:
Hon. Sunil R. Kulkarni in Dept. 1*

Action Filed:
Trial Date:

September 22, 2020
Not Set

The FIRST AMENDMENT TO JOINT STIPULATION OF CLASS ACTION
SETTLEMENT OF RELEASE OF CLAIMS (the "First Amendment") is made on
3/14/22 (the "Effective Date"), between RECON360, LLC ("Recon360") and Plaintiff
CARLOS HUMBERTO CARRILLO DIAZ ("Plaintiff"), on behalf of himself and the
Settlement Class Members (collectively referred to as "Plaintiffs"). Recon360 and
Plaintiffs are collectively referred to as the "Parties."

RECITALS

WHEREAS, effective on or around August 18, 2021, the Parties entered into the
JOINT STIPULATION OF CLASS ACTION SETTLEMENT OF RELEASE OF CLAIMS
(the "Settlement Agreement"), concerning the resolution of a class and PAGA action

First Amendment to Joint Stipulation of Class Action Settlement and
Release of Claims.docx

relating to various wage and hour claims;

WHEREAS, the Covered Period or Release Period originally agreed upon in the Settlement Agreement was defined as “the period from September 22, 2016 to July 30, 2021;”

WHEREAS, the PAGA Period originally agreed upon in the Settlement Agreement was defined as “the period from September 22, 2019 to July 30, 2021;”

WHEREAS, the Parties have agreed to modify the Covered Period or Release Period to September 22, 2016 to May 31, 2021;

WHEREAS, the Parties have agreed to modify the PAGA Period to September 22, 2019 to May 31, 2021;

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, the Parties execute this First Amendment to amend the Settlement Agreement as follows:

AMENDMENTS

A. Page 3, Lines 6-7 of the Settlement Agreement states: “Covered Period’ or “Release Period” means the period from September 22, 2016 to July 30, 2021.” At Page 3, Lines 6-7, change from “July 30, 2021” to “May 31, 2021.”

B. Page 5, Line 20 of the Settlement Agreement states: “PAGA Period’ means the period from September 22, 2019 to July 30, 2021.” At Page 5, Line 20, change from “July 30, 2021” to “May 31, 2021.”

C. Exhibit “A,” Page 1, the first bullet point states: “This lawsuit involves a class defined as: ‘All persons who are employed or have been employed as an hourly, non-exempt employee by RECON360, LLC, in the State of California from September 22, 2016 to July 30, 2021.” At Exhibit “A,” Page 1, the first bullet point, change from “July 30, 2021” to May 31, 2021.”

D. Exhibit “B,” Page 1, Line 15 of the Settlement Agreement states: “The Covered Period is from September 22, 2016 to July 30, 2021.” At Exhibit “B,” Page 1,

1 Line 15, change from "July 30, 2021" to "May 31, 2021."

2 E. Exhibit "B," Page 1, Line 16 of the Settlement Agreement states: "The
3 PAGA Period is September 22, 2019 to July 30, 2021." At Exhibit "B," Page 1, Line 16,
4 change from "July 30, 2021" to "May 31, 2021."

5 F. Exhibit "C," Page 2, Lines 22-23 state: "The 'Covered Period' or 'Release
6 Period' is the period of September 22, 2019 to July 30, 2021." At Exhibit "C," Page 2, Line
7 23, change from "July 30, 2021" to "May 31, 2021."

8 WHEREFORE, the Parties have executed this Agreement as of the dates set forth
9 below.

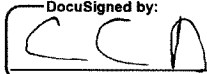
10 **IT IS SO AGREED:**

11 DATED: March 11, 2022

12

13

14

By: 
CARLOS HUMBERTO CARRILLO DIAZ

15 DATED: March __, 2022

16

17

18

By: _____
RECON360, LLC

19

20 **APPROVED AS TO FORM AND CONTENT:**

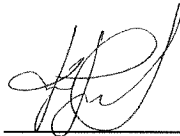
21 DATED: March 14, 2022

KINGSLEY & KINGSLEY APC

22

23

24

By: 
Kelsey M. Szmata
Attorneys for Plaintiff CARLOS HUMBERTO
CARRILLO DIAZ

25

26 ///

27 ///

28 ///

Line 15, change from "July 30, 2021" to "May 31, 2021."

E. Exhibit "B," Page 1, Line 16 of the Settlement Agreement states: "The PAGA Period is September 22, 2019 to July 30, 2021." At Exhibit "B," Page 1, Line 16, change from "July 30, 2021" to "May 31, 2021."

F. Exhibit "C," Page 2, Lines 22-23 state: "The 'Covered Period' or 'Release Period' is the period of September 22, 2019 to July 30, 2021." At Exhibit "C," Page 2, Line 23, change from "July 30, 2021" to "May 31, 2021."

WHEREFORE, the Parties have executed this Agreement as of the dates set forth below.

IT IS SO AGREED:

DATED: March ____, 2022

By: _____

CARLOS HUMBERTO CARRILLO DIAZ

3/10/2022 | 8:27 AM PST
DATED: March ____, 2022

RECON360, LLC

By: _____

DocuSigned by:
Rosario Wong
Rosario Wong, CEO

APPROVED AS TO FORM AND CONTENT:

DATED: March ____, 2022

KINGSLEY & KINGSLEY APC

By: _____

Kelsey M. Szmata
Attorneys for Plaintiff CARLOS HUMBERTO
CARRILLO DIAZ

1 DATED: March 10, 2022

HOGUE, FENTON, JONES & APPEL, INC.

2
3 By: 

4 Sarju A. Naran
5 Attorneys for Defendant, RECON360, LLC
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EXHIBIT A

KINGSLEY & KINGSLEY, APC
ERIC B. KINGSLEY, Esq. (SBN 185123)
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DAVTYAN LAW FIRM, INC.
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Glendale, CA 91205
Tel: (818) 875-2008, Fax: (818) 722-3974

Attorneys for Plaintiff and the Proposed Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

CARLOS HUMBERTO CARRILLO DIAZ
an individual, on behalf of himself and others
similarly situated

PLAINTIFF,

v.

RECON360, LLC; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

CASE NO. 20CV370603

[Case Assigned for All Purposes to Hon.
Sunil R. Kulkarni in Dept. 1]

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT AND RELEASE
OF CLAIMS**

1 This Joint Stipulation of Class Action Settlement and Release of Claims is entered into by
2 and between Plaintiff CARLOS HUMBERTO CARRILLO DIAZ, individually and on behalf of
3 the Settlement Class and the State of California, as a private attorney general, on the one hand, and
4 Defendant RECON360, LLC on the other hand.

5 This Joint Stipulation of Class Action Settlement and Release of Claims shall be binding
6 on Plaintiff, the current and former employees s/he seeks to represent, the Settlement Class, and
7 on Defendant and subject to the definitions, recitals, and terms set forth herein and the approval of
8 the Court.

9 **I. DEFINITIONS**

10 **1. Action**

11 "Action" or "Lawsuit" means the civil action filed in the Superior Court of the State of
12 California for the County of Santa Clara, entitled CARLOS HUMBERTO CARRILLO DIAZ, an
13 individual, on behalf of himself and others similarly situated, Plaintiff v. RECON360, LLC, and
14 Does 1 thru 50, inclusive, Defendants, Case No. 20CV370603, filed on September 22, 2020.

15 **2. Class Counsel**

16 "Class Counsel" means Kingsley & Kingsley, APC, who, subject to Court approval, shall
17 act as counsel for the Settlement Class.

18 **3. Class Counsel Award**

19 "Class Counsel Award" means attorneys' fees for Class Counsel's litigation and resolution
20 of this Lawsuit, and Class Counsel's expenses and legal costs incurred in connection with this
21 Lawsuit.

22 **4. Class Information**

23 "Class Information" or "Class Data" means information regarding Settlement Class
24 members that Defendant will in good faith compile from their records and provide to the
25 Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include:
26 each Settlement Class Member's full name; last known address; last known home telephone
27 number; last four digits of social security number; dates of employment, and Compensable Work
28 Weeks.

1 **5. Class Members or Settlement Class Members**

2 “Class Members” or “Settlement Class Members” means all persons who are employed or
3 have been employed as hourly, non-exempt employees by RECON360, LLC, in the State of
4 California during the Covered Period.

5 **6. Covered Period or Release Period**

6 “Covered Period” or “Release Period” means the period from September 22, 2016 to July
7 30, 2021.

8 **7. Named Plaintiff**

9 “Named Plaintiff” means Plaintiff CARLOS HUMBERTO CARRILLO DIAZ.

10 **8. Named Plaintiff Enhancement Award**

11 “Named Plaintiff Enhancement Award” means the amount that the Court authorizes to be
12 paid to Plaintiff, in addition to Plaintiff’s Individual Settlement Amount, in recognition of
13 Plaintiff’s efforts and risks in assisting with the prosecution of the Lawsuit and in return for
14 executing a general release with Defendant.

15 **9. Compensable Work Weeks**

16 “Compensable Work Weeks” means an estimate of the number of weeks in which
17 Settlement Class Member(s) performed work for Defendant in the State of California, excluding
18 vacation, leaves of absence, or any gaps in employment, during the Covered Period based on
19 Defendant’s records.

20 **10. Complaint**

21 “Complaint” means the operative complaint, filed in the Action.

22 **11. Court**

23 “Court” means the Superior Court for the County of Santa Clara, State of California.

24 **12. Defendant**

25 “Defendant” means Defendant RECON360, LLC.

26 **13. Effective Date**

27 “Effective Date” of the Settlement means the date on which the Court’s order granting
28 Final Approval of this Joint Stipulation becomes final. Such order becomes final upon the

1 following events: (i) upon the Court issuing the Final Approval Order granting approval of this
2 Settlement Agreement if no objections to the settlement are filed, or if an objection is filed but is
3 withdrawn prior to the Court's Final Approval Hearing; or (ii) in the event there are written
4 objections filed prior to the final approval hearing which are not thereafter withdrawn prior to the
5 hearing, the later of the following events: (a) the day after the last day by which a notice of appeal
6 of the order may be timely filed with the California Court of Appeal, and none is filed; (b) if an
7 appeal is filed and is finally disposed of by ruling, dismissal, denial, or otherwise, the day after the
8 last date for filing a request for further review of the Court of Appeal's decision passes and no
9 further review is requested; (c) if an appeal is filed and there is a final disposition by ruling,
10 dismissal, denial, or otherwise by the Court of Appeal, and further review of the Court of Appeal's
11 decision is requested, the day after the request for review is denied with prejudice and/or no further
12 review of the order can be requested; or (d) if review is accepted, the day the Supreme Court of
13 the State of California affirms the Settlement.

14 **14. Final Approval Hearing**

15 "Final Approval Hearing" means the final hearing held to ascertain the fairness,
16 reasonableness, and adequacy of the Settlement.

17 **15. Final Approval Order**

18 "Final Approval Order" means the proposed order granting final approval of the Parties'
19 settlement, in a form substantially similar to the order attached hereto as Exhibit C.

20 **16. Final Judgment**

21 "Final Judgment" means a judgment issued by the Court approving this Agreement as
22 binding upon the Parties. The Final Judgment shall constitute a judgment respecting the Parties
23 within the meaning and for purposes of California Code of Civil Procedure sections 577, 581d,
24 and 904.1(a), and on the PAGA claims for purposes of enforcing the rule announced in *Arias v.*
25 *Superior Court*, 46 Cal. 4th 969 (2009).

26 **17. Individual Settlement Amount**

27 "Individual Settlement Amount" means the amount paid from the Net Settlement Amount
28 to a Class Member, based upon his/her Compensable Work Weeks.

1 **18. LWDA**

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

3 **19. Net Settlement Amount**

4 “Net Settlement Amount” means the Gross Settlement Amount, less Court-approved Class
5 Counsel Award, Named Plaintiff Enhancement Award, payment to the LWDA, and Settlement
6 Administration Costs.

7 **20. Notice of Class Action Settlement**

8 “Notice of Class Action Settlement” means the Notice of Pendency of Class Action
9 Settlement and Hearing Date for Court Approval substantially in the form attached hereto as
10 Exhibit A, which shall include an approximation of each Settlement Class Member’s anticipated
11 Individual Settlement Amount. It is the notice approved by the Parties and subject to Court
12 approval explaining the terms of this Agreement and the settlement process, which the Settlement
13 Administrator will mail to each Settlement Class Member.

14 **21. PAGA**

15 “PAGA” refers to the Labor Code Private Attorneys General Act of 2004, codified at Labor
16 Code §§ 2699 et seq.

17 **22. PAGA Payment**

18 “PAGA Payment” means the payment made hereunder to the LWDA pursuant to PAGA.

19 **23. PAGA Period**

20 “PAGA Period” means the period from September 22, 2019 to July 30, 2021.

21 **24. Class Members**

22 “Class Members” or “Settlement Class Members” means those Class Members who did
23 not file a valid and timely Request for Exclusion pursuant to section III, paragraph 11 of this
24 Agreement.

25 **25. Parties**

26 “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean either
27 Plaintiff or Defendant, individually.

28 **26. Payment Ratio**

1 “Payment Ratio” means the respective Compensable Work Weeks during which an
2 employee worked, in proportion to the aggregate number of workweeks worked by all Settlement
3 Class members.

4 **27. Plaintiff**

5 “Plaintiff” means Plaintiff CARLOS HUMBERTO CARRILLO DIAZ.

6 **28. Preliminary Approval Date**

7 “Preliminary Approval Date” means the date on which the Court issues an order granting
8 preliminary approval of the proposed settlement in a form substantially similar to the order
9 attached hereto as Exhibit B.

10 **29. Released Claims**

11 “Released Claims” means any and all claims, debts, liabilities, demands, obligations,
12 penalties, guarantees, costs, expenses, attorney’s fees, damages, action or causes of action of
13 whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged, or
14 that reasonably could have arisen out of the same facts alleged in the Action, including, but not
15 limited to: (1) Failure to Provide Meal Breaks Pursuant to Labor Code §§ 226.7 and 512; (2)
16 Failure to Provide Rest Breaks Pursuant to Labor Code §§ 226.7; (3) Failure to Reimburse
17 Expenses Pursuant to Labor Code § 2802; (4) Penalties Pursuant to Labor Code § 203; (5)
18 Violation of Business & Professions Code § 17200; (6) Penalties Pursuant to Labor Code §2699,
19 et seq. (“PAGA”).

20 **30. Released Parties**

21 “Released Parties” means Defendant and any of its former and present parents,
22 subsidiaries, affiliates, officers, directors, employees, partners, shareholders, attorneys, agents,
23 successors, predecessors, assigns, or legal representatives.

24 **31. Request for Exclusion**

25 “Request for Exclusion” means a letter setting forth a Class Member’s name, present
26 address, and a simple statement electing to be excluded from the Settlement.

27 **32. Response Deadline**

28 “Response Deadline” means the date sixty (60) days after the Settlement Administrator

1 mails the Notice of Class Action Settlement to Settlement Class members, which is the last date
2 on which Settlement Class members may: (a) submit a Request for Exclusion; (b) file and serve
3 objections to the settlement; or (c) dispute the information contained in the Notice of Class Action
4 Settlement.

5 **33. Settlement**

6 “Settlement” or “Settlement Agreement” means the disposition of the Lawsuit pursuant to
7 this Joint Stipulation of Class Action Settlement and Release of Claims.

8 **34. Settlement Administrator**

9 “Settlement Administrator” means the third-party company that the Parties have selected
10 to be responsible for administering the Settlement. This Settlement Administrator is ILYM Group,
11 Inc.

12 **35. Settlement Administrator Costs**

13 “Settlement Administrator Costs” means the amount to be paid to the Settlement
14 Administrator from the Gross Settlement Amount for administration of this Settlement. The
15 estimated Settlement Administrator Costs are \$15,000.

16 **36. Gross Settlement Amount**

17 “Gross Settlement Amount” means the agreed upon settlement amount totaling
18 \$700,000.00 to be paid by Defendant in full settlement of the Released Claims, and includes
19 without limitation the Class Counsel Award, Named Plaintiff Enhancement Award, Individual
20 Settlement Amounts, PAGA Payment, and Settlement Administrator Costs.

21 **II. RECITALS**

22 **1. Class Certification.**

23 The Parties stipulate to class certification for purposes of settlement only. If the Court does
24 not grant either preliminary or final approval of this Settlement, the Parties agree that this
25 stipulation regarding class certification will be revoked and the Parties will return to a point in
26 litigation prior to the execution of this Agreement.

27 **2. Procedural History.**

28 On September 22, 2020, Plaintiff filed a Class Action Complaint and a notice with

1 California's Labor and Workforce Development Agency ("LWDA") regarding his intent to file an
2 action seeking civil penalties under PAGA. On November 30, 2020, Plaintiff filed a First
3 Amended Complaint ("FAC"), adding the PAGA claim based on the facts previously alleged in
4 the Complaint.

5 The operative Complaint alleges claims for: (1) Failure to Provide Meal Breaks Pursuant
6 to Labor Code §§ 226.7 and 512; (2) Failure to Provide Rest Breaks Pursuant to Labor Code §§
7 226.7; (3) Failure to Reimburse Expenses Pursuant to Labor Code § 2802; (4) Penalties Pursuant
8 to Labor Code § 203; (5) Violation of Business & Professions Code § 17200; and (6) Penalties
9 Pursuant to Labor Code § 2699, et seq. ("PAGA").

10 After the matter was at issue, the Parties began to engage in informal discovery to
11 understand the nature of the allegations and the scope of potential liability. Defendant provided
12 Plaintiff's counsel with pertinent data for the Class Members so that the Parties could fully-
13 investigate the claims at issue and understand their strengths and weaknesses.

14 On May 13, 2021, the Parties attended a full-day mediation with experienced mediator
15 Hon. Judge Jacobs-May. With the assistance of the mediator, the Parties reached a settlement, as
16 provided herein, to settle Plaintiff's claims on a class-wide basis.

17 Defendant denies any liability or wrongdoing of any kind associated with the claims
18 asserted in Plaintiff's Complaint, disputes the damages and penalties claimed by Plaintiff, and
19 further contends that, for any purpose other than settlement, Plaintiff's claims are not appropriate
20 for class or representative action treatment. This Stipulation is a compromise of disputed claims.
21 Nothing contained in this Stipulation, no documents referred to herein, and no action taken to carry
22 out this Stipulation, shall be construed or used as an admission by or against Defendant as to the
23 merits or lack thereof of the claims asserted in this Lawsuit. Defendant contends, among other
24 things, that, at all times, it has complied with all applicable state, federal and local laws related to
25 the Settlement Class members' employment.

26 The Named Plaintiff is represented by Class Counsel. Class Counsel conducted an
27 investigation into the facts relevant to the Lawsuit, including reviewing documents and
28 information provided by Defendant. Based on their own independent investigation and evaluation,

1 Class Counsel is of the opinion that the Settlement with Defendant is fair, reasonable and adequate,
2 and in the best interest of the Settlement Class in light of all known facts and circumstances,
3 including the risks of significant delay, defenses asserted by Defendant, uncertainties regarding a
4 class and representative action trial on the merits, and numerous potential appellate issues.
5 Although Defendant denies any liability, Defendant is agreeing to this Settlement solely to avoid
6 the cost of further litigation. Accordingly, the Parties and their counsel desire to fully, finally, and
7 forever settle, compromise and discharge all disputes and claims arising from or relating to the
8 Actions on the terms set forth herein.

9 **3. Benefits of Settlement to Class Members.**

10 Plaintiff and Class Counsel recognize the expense and length of continued proceedings
11 necessary to litigate their disputes through trial and through any possible appeals. Plaintiff has
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. Plaintiff and Class Counsel are also aware of
14 the burdens of proof necessary to establish liability for the claims asserted in the Lawsuit, both
15 generally and in response to Defendant's defenses thereto, and the difficulties in establishing
16 damages for the Settlement Class members. Plaintiff and Class Counsel have also taken into
17 account Defendant's agreement to enter into a settlement that confers substantial relief upon the
18 members of the Settlement Class. Based on the foregoing, Class Counsel have concluded that
19 settlement for the consideration and on the terms set forth in this Settlement Agreement, is fair,
20 reasonable, and adequate and is in the best interest of the putative class in light of all known facts
21 and circumstances, including the risk of significant delay, defenses asserted by Defendant,
22 Defendant's financial condition, numerous potential appellate issues, and other risks inherent in
23 litigation.

24 **4. Defendant's Reasons for Settlement.**

25 Defendant has concluded that any further defense of this litigation would be protracted and
26 expensive for all Parties. Substantial amounts of Defendant's time, energy, and resources have
27 been and, unless this Settlement is completed, will continue to be devoted to, the defense of the
28 claims asserted by Plaintiff and Settlement Class members. Defendant has also taken into account

1 the risks of further litigation in reaching its decision to enter into this Settlement. Even though
2 Defendant continues to contend that it is not liable for any of the claims set forth by Plaintiff in
3 this Lawsuit, Defendant has agreed, nonetheless, to settle in the manner and upon the terms set
4 forth in this Agreement to put to rest the claims in this Lawsuit. Defendant contends that it has
5 complied with all applicable state, federal, and local laws.

6 **5. Settlement of Disputed Claims.**

7 This Agreement is a compromise of disputed claims. Defendant has claimed and continues
8 to claim that the Released Claims have no merit and do not give rise to liability. Settlement Class
9 members have claimed and continue to claim that the Released Claims have merit and give rise to
10 liability on the part of Defendant. This Agreement is a compromise of disputed claims. Nothing
11 contained in this Agreement, no documents referred to herein, and no action taken to carry out this
12 Agreement, may be construed or used as an admission by or against the Settlement Class members
13 or Class Counsel as to the merits or lack thereof of the claims asserted in this Lawsuit.

14 **III. TERMS OF AGREEMENT**

15 **1. Release as To All Class Members.**

16 As of the Effective Date, the Class Members, including Plaintiff, release the Released
17 Parties from the Released Claims for the Covered Period.

18 **2. Release of Claims by Plaintiff**

19 As of the Effective Date, Plaintiff releases the Released Parties from all of the Released
20 Claims during the Covered Period. Plaintiff, for himself and his heirs, successors and assigns,
21 further waives, releases, acquits and forever discharges the Released Parties from any and all
22 claims, actions, charges, complaints, grievances and causes of action, of whatever nature, whether
23 known or unknown, which exist or may exist on Plaintiff's behalf as of the date of this Agreement,
24 including, but not limited to, any and all tort claims, contract claims, wage claims, wrongful
25 termination claims, disability claims, benefit claims, public policy claims, retaliation claims,
26 statutory claims, personal injury claims, emotional distress claims, invasion of privacy claims,
27 defamation claims, fraud claims, quantum meruit claims, and any and all claims arising under any
28 federal, state or other governmental statute, law, regulation or ordinance, including, but not limited

1 to, claims for violation of the FLSA, the California Labor Code, the Wage Orders of California's
2 Industrial Welfare Commission, other state wage and hour laws, the Americans with Disabilities
3 Act, the Age Discrimination in Employment Act (ADEA), the Employee Retirement Income
4 Security Act, Title VII of the Civil Rights Act of 1964, the California Fair Employment and
5 Housing Act, the California Family Rights Act, the Family Medical Leave Act, California's
6 Whistleblower Protection Act, California Business & Professions Code §§17200 et seq., and any
7 and all claims arising under any federal, state or other governmental statute, law, regulation or
8 ordinance.

9 Plaintiff's releases set forth herein include a waiver of all rights under California Civil
10 Code §1542, which provides:

11 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**
12 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT**
13 **TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING**
14 **THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD**
HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH
THE DEBTOR OR RELEASED PARTY.

15 Plaintiff may hereafter discover claims or facts in addition to, or different from, those
16 which he now knows or believes to exist, but Plaintiff expressly agrees to fully, finally and forever
17 settle and release any and all claims against the Released Parties, known or unknown, suspected
18 or unsuspected, which exist or may exist on behalf of or against the other at the time of execution
19 of this Agreement, including, but not limited to, any and all claims relating to or arising from
20 Plaintiff's employment with Defendant.

21 **3. Tax Liability and Medicare.**

22 The Parties make no representations as to the tax treatment or legal effect of the payments
23 called for hereunder, and Settlement Class members are not relying on any statement or
24 representation by the Parties in this regard. Class Member' understand and agree that they will be
25 responsible for the payment of taxes and penalties assessed on the payments described herein and
26 will hold the Parties free and harmless from and against any claims resulting from treatment of
27 such payments as non-taxable damages, including the treatment of such payment as not subject to
28 withholding or deduction for payroll and employment taxes. Moreover, this Agreement is based

1 upon a good faith determination of the Parties to resolve a disputed claim. The Parties have not
2 shifted responsibility of medical treatment to Medicare in contravention of 42 U.S.C. Sec.
3 1395y(b), especially since this is strictly a wage and hour case. The Parties resolved this matter in
4 compliance with both state and federal law. The Parties made every effort to adequately protect
5 Medicare's interest and incorporate such into the settlement terms. Plaintiff warrants that he is not
6 a Medicare beneficiary as of the date of this Agreement. Because Plaintiff is not a Medicare
7 recipient as of the date of this Agreement, no conditional payments have been made by Medicare.

8 **4. Circular 230 Disclaimer.**

9 Each Party to this Agreement (for purposes of this section, the "acknowledging party" and
10 each Party to this Agreement other than the acknowledging party, an "other party") acknowledges
11 and agrees that (1) no provision of this Agreement, and no written communication or disclosure
12 between or among the Parties or their attorneys and other advisers, is or was intended to be, nor
13 shall any such communication or disclosure constitute or be construed or be relied upon as, tax
14 advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10,
15 as amended); (2) the acknowledging party (a) has relied exclusively upon his, her, or its own,
16 independent legal and tax counsel for advice (including tax advice) in connection with this
17 Agreement, (b) has not entered into this Agreement based upon the recommendation of any other
18 party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any
19 communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty
20 that may be imposed on the acknowledging party; and (3) no attorney or adviser to any other party
21 has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax
22 strategies (regardless of whether such limitation is legally binding) upon disclosure by the
23 acknowledging party of the tax treatment or tax structure of any transaction, including any
24 transaction contemplated by this Agreement.

25 **5. Preliminary Approval of Settlement.**

26 Plaintiff will move the Court to grant preliminary approval of this Settlement, certifying
27 the Settlement Class for settlement purposes only and setting a date for a final approval hearing.
28 All Parties agree to work diligently and cooperatively to have this Settlement presented to the

1 Court for preliminary approval. The proposed preliminary approval order shall provide for the
2 Notice of Class Action Settlement to be sent to Settlement Class members as specified herein.

3 **6. Settlement Administrator.**

4 Upon the Court granting preliminary approval of this Agreement, Defendant shall provide
5 the Settlement Administrator with the Class Information for purposes of mailing the Notice of
6 Class Action Settlement to the Settlement Class members. No later than three (3) days after receipt
7 of the Class Information, the Settlement Administrator shall notify counsel for the Parties that the
8 list has been received and state the number of Settlement Class members.

9 **7. Notice by First Class U.S. Mail.**

10 Upon receipt of the Class Information, the Settlement Administrator will perform a search
11 based on the National Change of Address Database to update and correct any known or identifiable
12 address changes. Within fifteen (15) days of preliminary approval of this Settlement, the
13 Settlement Administrator shall mail copies of the Notice of Class Action Settlement to all
14 Settlement Class members via regular First-Class U.S. Mail. The Settlement Administrator shall
15 exercise its best judgment to determine the current mailing address for each Settlement Class
16 Member, including performing a skip-trace to identify any updated addresses. The address
17 identified by the Settlement Administrator as the current mailing address shall be presumed to be
18 the best mailing address for each Settlement Class Member.

19 **8. Undeliverable Notices.**

20 Any Notice of Class Action Settlement returned to the Settlement Administrator as
21 undeliverable on or before the Response Deadline shall be re-mailed once to the forwarding
22 address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall
23 promptly attempt to determine a correct address by use of skip-tracing, or other search using the
24 name, address and/or social security number of the Settlement Class Member whose notice was
25 undeliverable, and shall then re-mail all returned, undelivered mail within ten (10) days of
26 receiving notice that a notice was undeliverable. Settlement Class members who receive a re-
27 mailed Notice of Class Action Settlement shall have their Response Deadline extended twenty
28 (20) days from the original Response Deadline.

1 **9. Disputes Regarding Individual Settlement Amounts.**

2 Settlement Class members will have the opportunity, should they disagree with
3 Defendant's records regarding the dates of employment stated on their Notice of Class Action
4 Settlement, to provide documentation and/or an explanation to show contrary information by the
5 Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties
6 to determine whether an adjustment is warranted. The Settlement Administrator shall determine
7 the eligibility for, and the amounts of, any Individual Settlement Amounts under the terms of this
8 Agreement. The Settlement Administrator's determination of the eligibility for and amount of any
9 Individual Settlement Amount shall be binding upon the Settlement Class members and the Parties.
10 In the absence of circumstances indicating fraud, manipulation or destruction, Defendant's records
11 will be given a rebuttable presumption of accuracy.

12 **10. Disputes Regarding Administration of Settlement.**

13 Any disputes not resolved by the Settlement Administrator concerning the administration
14 of the Settlement will be resolved by the Court, under the laws of the State of California. Prior to
15 any such involvement of the Court, counsel for the Parties will confer in good faith to resolve the
16 disputes without the necessity of involving the Court.

17 **11. Exclusions.**

18 The Notice of Class Action Settlement shall state that Settlement Class members who wish
19 to exclude themselves ("opt-out") from the Settlement must submit a Request for Exclusion by the
20 Response Deadline. The Request for Exclusion: (1) must contain the name, address, and telephone
21 number of the Settlement Class Member requesting exclusion; (2) must contain a statement
22 expressing that the Settlement Class Member elects to be excluded from the Settlement; (4) must
23 be signed by the Settlement Class Member; and (5) must be postmarked or fax stamped by the
24 Response Deadline and returned to the Settlement Administrator at the specified address or fax
25 number. The Request for Exclusion will be deemed invalid if it does not contain a Settlement
26 Class Member's name, address, telephone number, and signature. The date of the postmark on the
27 return mailing envelope or fax stamp on the Request for Exclusion shall be the exclusive means
28 used to determine whether a Request for Exclusion has been timely submitted. Any Settlement

1 Class Member who requests to be excluded from the Settlement Class will not be entitled to any
2 recovery under the Settlement and will not be bound by the terms of the Settlement or have any
3 right to object, appeal, or comment thereon. Settlement Class members who fail to submit a valid
4 and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms
5 of the Settlement and any Final Judgment entered in this Lawsuit if the Settlement is approved by
6 the Court. No later than seven (7) calendar days after the Response Deadline, the Settlement
7 Administrator shall provide counsel for the Parties with a complete list of all members of the
8 Settlement Class who have timely submitted a Request for Exclusion.

9 In the event more than 10 Settlement Class Members opt-out, Plaintiff will have the option
10 to decrease the Gross Settlement amount proportionately. If Plaintiff declines to do so, Defendant
11 will have the option to terminate the settlement in its entirety and the Parties will be returned to
12 their respective positions as if no settlement had been contemplated. Defendant shall not directly
13 or indirectly attempt to influence Settlement Class Members to opt-out.

14 **12. Objections.**

15 The Notice of Class Action Settlement shall state that Settlement Class members who wish
16 to object to the Settlement may do so in person at the Final Approval Hearing and/or in writing.
17 Any written objection ("Notice of Objection") must be mailed to the Settlement Administrator by
18 the Response Deadline. The date of mailing on the envelope shall be deemed the exclusive means
19 for determining that a Notice of Objection was timely received. The Notice of Objection must be
20 signed by the Settlement Class Member and state: (1) the full name of the Settlement Class
21 Member; (2) the dates of employment of the Settlement Class Member; (3) the basis for the
22 objection; and (4) if the Settlement Class Member intends to appear at the final approval hearing.
23 Class Counsel will ensure that any Notice of Objection received by the Settlement Administrator
24 by the Response Deadline are filed with the Court along with the Motion for Final Approval. Either
25 of the Parties may file a responsive document to any objection before the Final Approval Hearing.
26 Any attorney who will represent an individual objecting to this Settlement who has not filed a
27 written objection must file a notice of appearance with the Court and serve Class Counsel and
28 counsel for Defendant no later than the Response Period Deadline. Class Counsel shall not

1 represent any Settlement Class members with respect to any such objections.

2 Any Class Member who fails to submit a timely written objection or to present an objection
3 in person at the Final Approval Hearing shall be deemed to have waived any objections and shall
4 be foreclosed from making any objection to the Settlement whether by appeal or otherwise.

5 **13. No Solicitation of Settlement Objections or Exclusions.**

6 The Parties agree to use their best efforts to carry out the terms of this Settlement. At no
7 time shall any of the Parties or their counsel seek to solicit or otherwise encourage Settlement
8 Class members to submit either written objections to the Settlement or requests for exclusion from
9 the Settlement, or to appeal from the Court's Final Judgment.

10 **14. Funding and Allocation of Gross Settlement Amount.**

11 No later than twenty (20) days after the Effective Date, Defendant shall provide the Gross
12 Settlement Amount to the Settlement Administrator to fund the Settlement, as set forth in this
13 Agreement. Defendant will not be obligated to make any payments contemplated by this
14 Agreement unless and until the Court enters the Final Approval Order and Final Judgment, and
15 after the Effective Date of the Agreement.

16 **15. Net Settlement Amount.**

17 The Net Settlement Amount will be determined by the Settlement Administrator by
18 subtracting the Class Counsel Award, Named Plaintiff Enhancement Award, PAGA Payment, and
19 Settlement Administrator Costs from the Gross Settlement Amount. The anticipated Net
20 Settlement Amount is \$411,666.67. The Parties estimate the amount of the Net Settlement Amount
21 as follows:

22	Gross Settlement Amount:	\$ 700,000.00
23	Named Plaintiff Enhancement Award:	\$ 5,000.00
24	Class Counsel Fees:	\$ 233,333.33
25	Class Counsel Costs:	\$ 10,000.00
26	PAGA Payment	\$ 25,000.00
27		<i>(\$18,750.00 to the LWDA and \$6,250.00</i>
28		<i>to be distributed to eligible Settlement</i>

Class Members as discussed in
paragraph 26 below)

Settlement Administrator Costs: \$ 15,000.00

Net Settlement Amount \$ 411,666.67

This is a non-reversionary Settlement in which Defendant is required to pay the entire Gross Settlement Amount, which includes, the Class Counsel Award, Named Plaintiff Enhancement Award, Individual Settlement Amounts, PAGA Payment, and Settlement Administrator Costs. No portion of the Gross Settlement Amount will revert to Defendant. Defendant's share of payroll taxes and other required withholdings from Individual Settlement Amounts, including but not limited to Defendant's FICA and FUTA contributions, shall be paid separately from, and in addition to, the Gross Settlement Amount.

16. Individual Settlement Amounts.

Individual Settlement Amounts will be paid from the Net Settlement Amount and shall be paid pursuant to the settlement formula set forth herein. Individual Settlement Amounts shall be mailed by regular First-Class U.S. Mail to each Class Member's last known mailing address within seven calendar days after Defendant makes the final settlement payment. All Individual Settlement Amounts will be allocated as follows: thirty-three and one-third percent (33.33%) as wages, thirty-three and one-third percent (33.33%) as interest, and thirty-three and one-third percent (33.33%) as statutory penalties.

17. Class Member's Payment Ratio.

Class Members will be paid on a pro-rata basis. A Class Member's Individual Settlement Amount will be based on the number of Compensable Workweeks during which s/he worked in proportion to the aggregate number of workweeks worked by all Settlement Class members.

18. Payment to Class Member.

Checks shall be made payable to each Class Member for payment of each Class Member's Individual Settlement Amount as set forth in Paragraphs 16 and 17 of this Agreement.

19. Form of Payment to Class Member.

The Individual Settlement Amount due to each Class Member shall be paid in the form of

1 a check to each Class Member.

2 **20. Unclaimed Settlement Payment(s).**

3 After one hundred and eighty (180) days of the mailing of the Individual Settlement
4 Amount checks, funds attributable to unclaimed, undeliverable, or expired Individual Settlement
5 Amount checks will be transmitted to the State of California Office of the Controller Unclaimed
6 Property Fund in the name of the Class Member who did not cash his/her Settlement check. The
7 Parties agree to coordinate their efforts to seek Court approval for such an escheatment process of
8 uncashed funds. If, for some reason, the Court does not approve the escheatment of uncashed
9 funds, the Parties agree to proceed pursuant to California Code of Civil Procedure section 384,
10 distribute uncashed funds as described therein, and agree upon the non-profit Bet Tzedek Legal
11 Services as the cy pres designee pursuant to Code of Civil Procedure section 384(b)(3)(C).

12 **21. Named Plaintiff Enhancement Award.**

13 Plaintiff will request that the Court approve a Named Plaintiff Enhancement Award of up
14 to \$5,000.00. Subject to Court approval, in exchange for the release of all Released Claims and
15 for his time and effort in bringing and prosecuting this matter, Plaintiff shall be paid a Named
16 Plaintiff Enhancement Award of up to \$5,000.00. The Named Plaintiff Enhancement Award shall
17 be paid to Plaintiff from the Gross Settlement Amount within ten (10) calendar days after
18 Defendant makes the final settlement payment. The Settlement Administrator shall issue an IRS
19 Form 1099 – MISC to Plaintiff for his respective Named Plaintiff Enhancement Award. Plaintiff
20 shall be solely and legally responsible to pay any and all applicable taxes on his Named Plaintiff
21 Enhancement Award and shall hold harmless Defendant and Class Counsel from any claim or
22 liability for taxes, penalties, or interest arising as a result of the Named Plaintiff Enhancement
23 Award. The Named Plaintiff Enhancement Award shall be in addition to the Plaintiff's Individual
24 Settlement Amount as a Settlement Class Member. Any amount requested by Plaintiff for the
25 Named Plaintiff Enhancement Award and not granted by the Court shall return to the Net
26 Settlement Amount and be distributed to Class Members as provided in this Agreement.

27 **22. Class Counsel Award.**

28 Class Counsel will request that the Court approve attorneys' fees in the amount of up to

thirty-three and one-third percent (33.33%) (\$233,33.33) of the Gross Settlement Amount (\$700,000.00). Class Counsel will request that the Court approve the reimbursement of any litigation costs or expenses associated with Class Counsel's prosecution of this matter from the Gross Settlement Amount not to exceed \$10,000.00. So long as there are no objections, Class Counsel shall be paid any Court-approved fees and costs no later than ten (10) calendar days after Defendant makes the final settlement payment. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 – MISC to Class Counsel for the payments made pursuant to this paragraph. This Settlement is not contingent upon the Court awarding Class Counsel any particular amount in attorneys' fees and costs. Any amount requested by Class Counsel for the Class Counsel Award and not granted by the Court shall return to the Net Settlement Amount and be distributed to Class Members as provided in this Agreement.

23. Settlement Administrator Costs.

Up to \$15,000.00 of the Gross Settlement Amount shall be allocated for Settlement Administrator Costs. The Settlement Administrator shall have the authority and obligation to make payments, credits and disbursements to Settlement Class members in the manner set forth herein, calculated in accordance with the methodology set out in this Agreement and orders of the Court. The Parties agree to cooperate in the Settlement administration process and to make all reasonable efforts to control and minimize the cost and expenses incurred in administration of the Settlement.

24. Responsibilities of the Settlement Administrator.

The Settlement Administrator shall be responsible for the following: processing and mailing payments to Plaintiff, Class Counsel, and Class Members; printing, and mailing the Notice of Class Action Settlement and tax forms to the Class Members as directed by the Court; receiving and reporting the requests for exclusion and objections submitted by Settlement Class members; providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement; and other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities.

1 **25. Settlement Administrator Fees.**

2 The Settlement Administrator shall be paid the Settlement Administrator Costs within ten
3 (10) calendar days after Defendant makes the final settlement payment.

4 **26. Payment to the LWDA.**

5 A total payment of \$25,000.00 from the Gross Settlement Amount will be allocated as the
6 PAGA Payment to be paid as penalties under the Labor Code Private Attorneys General Act of
7 2004, to the LWDA. Seventy-five percent (75%) of the PAGA Payment will be paid to the LWDA
8 and the remaining twenty-five (25%) shall be distributed to eligible Settlement Class Members
9 who worked during the PAGA Period on a pro rata basis based on the number of pay periods.

10 **27. Final Approval Hearing and Entry of Final Judgment.**

11 Upon expiration of the Response Deadline, with the Court's permission, a final approval
12 hearing shall be conducted to determine final approval of the Settlement along with the amount
13 properly payable for: (i) the Class Counsel Award; (ii) the Named Plaintiff Enhancement Award;
14 (iii) Individual Settlement Amounts; (iv) the Settlement Administrator Costs; and (v) PAGA
15 Payment.

16 **28. Final Approval Order.**

17 Plaintiff will request, and Defendant will concur in said request, that the Court enter, after
18 the Final Approval Hearing, a Final Approval Order in the form attached hereto as Exhibit B.
19 Plaintiff will request that the Final Approval Order certify the Settlement Class; find that this
20 Agreement is fair, just, adequate, and in the best interests of the Class; and require the Parties to
21 carry out the provisions of this Agreement.

22 **29. Nullification of Settlement Agreement.**

23 In the event: (i) the Court denies preliminary approval of the Settlement; (ii) the Court
24 denies final approval of the Settlement; (iii) the Court refuses to enter a Final Judgement as
25 provided herein; or (iv) the Settlement does not become final for any other reason, this Settlement
26 Agreement shall be null and void and any order or judgement entered by the Court in furtherance
27 of this Settlement shall be treated as void from the beginning. To the extent the total number of
28 opt outs exceed 10%, Defendant has the option to nullify this settlement within ten (10) court days

1 of the last day of the response period via a written notice to Plaintiff's counsel. If one or more of
2 such events occur causing the Settlement Agreement to become null and void, the Parties shall
3 proceed in all respects as if this Agreement had not been executed, except that any fees already
4 incurred by the Settlement Administrator shall be paid by the party terminating the Settlement or
5 Defendant will be solely responsible for the costs incurred for the settlement administration should
6 it exercise its' option to nullify this agreement. The return of any paid Settlement funds to
7 Defendant shall occur no later than five (5) business days after one or more of the triggering events
8 leading to nullification occurs. In the event an appeal is filed from the Court's Final Judgment, or
9 any other appellate review is sought, administration of the Settlement shall be stayed pending final
10 resolution of the appeal or other appellate review, but any fees incurred by the Settlement
11 Administrator prior to it being notified of the filing of an appeal from the Court's Final Judgment,
12 or any other appellate review, shall be paid to the Settlement Administrator by Defendant within
13 thirty (30) days of said notification.

14 **30. Increase in Class Members.**

15 It was represented to Class Counsel that the Settlement Class is estimated to be 265 people.
16 Upon receipt of the Class Data, the Settlement Administrator shall confirm to Plaintiff that the
17 Class Data is consistent with these representations. To the extent the number of Settlement Class
18 members increases beyond 265 by more than 5%, Defendant shall have the option to increase the
19 Gross Settlement Amount by a proportionate amount. For example, if the number of pay periods
20 increases by 7% then Defendant shall increase the GSA by 7%. Likewise, for example, if the
21 number of Settlement Class members increases by 7%, Defendant shall increase the Gross
22 Settlement Amount by 7%. If the increase causes an increase of the cost of Settlement
23 Administration beyond the amount that has been approved by the Court, Defendant shall separately
24 bear the increased cost of Settlement Administration outside of the Gross Settlement Amount. If
25 Defendant fails to increase the Gross Settlement Amount proportionately or remit payment of the
26 increased cost of Settlement Administration, Plaintiff shall have the right to terminate this
27 Agreement and the Parties will be restored to their positions prior to the Settlement and the
28 Settlement shall be null and void.

1 **31. No Effect on Employee Benefits.**

2 Amounts paid to Plaintiff or other Settlement Class members pursuant to this Agreement
3 shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for,
4 or calculation of, any of the employee benefits (e.g., vacations, holiday pay, retirement plans, etc.)
5 of Plaintiff or Settlement Class members.

6 **32. No Admission by Defendant.**

7 Defendant denies any and all claims alleged in this Lawsuit and deny all wrongdoing
8 whatsoever. This Agreement is not a concession or admission, and shall not be used against
9 Defendant as an admission or indication with respect to any claim of any fault, concession, or
10 omission by Defendant.

11 **33. Exhibits and Headings.**

12 The terms of this Agreement include the terms set forth in any attached Exhibits, which are
13 incorporated by this reference as though fully set forth herein. Any Exhibits to this Agreement are
14 an integral part of the Settlement. The descriptive headings of any paragraphs or sections of this
15 Agreement are inserted for convenience of reference only and do not constitute a part of this
16 Agreement.

17 **34. Interim Stay of Proceedings.**

18 Upon full execution of this Agreement, the Parties agree that based upon Code of Civil
19 Procedure §583.310 (“the 5 year rule”), the Lawsuit shall be stayed in its entirety except for the
20 proceedings necessary to implement and complete the Settlement.

21 **35. Amendment or Modification.**

22 This Agreement may be amended or modified only by a written instrument signed by
23 counsel for all Parties or their successors-in-interest.

24 **36. Entire Agreement.**

25 Apart from the fully-executed Memorandum of Understanding, which the Parties
26 specifically agree to integrate herein, this Agreement and any attached Exhibits constitute the
27 entire Agreement among these Parties, and no oral or written representations, warranties, or
28 inducements have been made to any Party concerning this Agreement or its Exhibits other than

1 the representations, warranties, and covenants contained and memorialized in the Agreement and
2 its Exhibits. The Parties are entering in to this Agreement based solely on the representations and
3 warranties herein and not based on any promises, representation, and/or warranties not found
4 herein.

5 **37. 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 actions 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 persons signing this Agreement on behalf of
15 Defendant represent and warrant that they are authorized to sign this Agreement on behalf of
16 Defendant. Plaintiff represents and warrants that he is authorized to sign this Agreement and that
17 he does have not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

18 **38. Binding on Successors and Assigns.**

19 This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns
20 of the Parties hereto, as previously defined.

21 **39. California Law Governs.**

22 All terms of this Agreement and the Exhibit hereto shall be governed by and interpreted
23 according to the laws of the State of California.

24 **40. Counterparts.**

25 This Agreement may be executed in one or more counterparts. All executed counterparts
26 and each of them shall be deemed to be one and the same instrument.

27 **41. Jurisdiction of the Court.**

28 Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain

jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all orders and judgments entered in connection therewith. All terms of this Agreement are subject to approval by the Court.

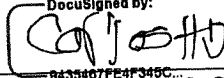
42. Invalidity of Any Provision.

Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

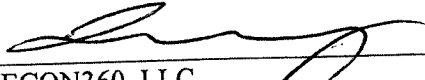
WHEREFORE, Plaintiff, on behalf of himself and the Settlement Class members, and Defendant has executed this Agreement as of the dates set forth below.

IT IS SO AGREED:

Dated: August 4, 2021

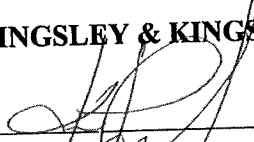
By: 
CARLOS HUMBERTO CARRILLO DIAZ

Dated: 8/18/21

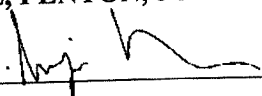

RECON360, LLC
By: General Contractor

APPROVED AS TO FORM AND CONTENT:

Dated: August 5, 2021

KINGSLEY & KINGSLEY APC
By: 
Kelsey M. Szamet
Attorneys for Plaintiff CARLOS HUMBERTO CARRILLO DIAZ and the Proposed Class

Dated: _____

HOGUE, FENTON, JONES & APPEL, INC.
By: 
Sarju Narah
Attorneys for Defendant RECON360, LLC

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EXHIBIT "A"

1 **KINGSLEY & KINGSLEY, APC**
ERIC B. KINGSLEY, Esq. (SBN 185123)
2 eric@kingsleykingsley.com
KELSEY M. SZAMET, Esq. (SBN 260264)
3 16133 Ventura Blvd., Suite 1200
Encino, CA 91436
4 Tel: (818) 990-8300, Fax (818) 990-2903

5 **DAVTYAN LAW FIRM, INC.**
EMIL DAVTYAN, Esq. (SBN-299363)
6 emil@davtyanlaw.com
880 E. Broadway
7 Glendale, CA 91205
Tel: (818) 875-2008, Fax: (818) 722-3974
8

9 Attorneys for Plaintiff and the Proposed Class
10

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SANTA CLARA**

13 CARLOS HUMBERTO CARRILLO DIAZ
14 an individual, on behalf of himself and others
similarly situated

15 PLAINTIFF,

16 v.

17 RECON360, LLC; and DOES 1 thru 50,
18 inclusive,

19 DEFENDANTS.
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CASE NO. 20CV370603

[Case Assigned for All Purposes to Hon.
Sunil R. Kulkarni in Dept. 1]

CLASS NOTICE

[CLASS MEMBER NAME]

CARLOS HUMBERTO CARRILLO DIAZ v. RECON360, LLC

**Superior Court of the State of California, County of Santa Clara
Case No. 20CV370603:**

If you are a current or former employee for RECON360, LLC (“RECON360, LLC” or “Defendant”), a class action lawsuit may affect your rights and you may be entitled to benefits under the settlement.

You are not being sued. A court authorized this notice. This is not a solicitation from a lawyer.

**PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT
INFORMATION ABOUT YOUR RIGHTS.**

- This lawsuit involves a class defined as:

“All persons who are employed or have been employed as an hourly, non-exempt employee by RECON360, LLC, in the State of California from September 22, 2016 to July 30, 2021.”
- You are receiving this Notice because the records reflect that you may be one of the above Class Members.
- Plaintiff in this class action alleges that Defendant failed to provide lawful meal and rest periods, failed to reimburse expenses, failed to pay lawful wages upon termination or resignation, engaged in unfair business practices, and is liable for penalties under California’s Private Attorneys General Act or “PAGA.” Defendant denies Plaintiff’s claims, and asserts that it has complied with all of its legal obligations to its employees.
- There has been a settlement that affects your rights. Although the Court has authorized the Parties to provide this notice of the proposed settlement, the Court has expressed no opinion on the merits of Plaintiff’s claims or ’s defenses.
- You will not be penalized or retaliated against by RECON360, LLC for participating in this class action settlement. If you are currently employed by RECON360, LLC, your employment will not be affected in any way. Current employees of RECON360, LLC who choose to participate in the settlement will not be required to resign and can continue to work for RECON360, LLC.
- You have several options available to you:

DO NOTHING	By doing nothing, you <u>will</u> receive a share of the settlement proceeds, and you will give up any rights to sue for claims pled or arising out of or reasonably related to the transactions and occurrences pled in the Complaint, which are or could be the basis of claims that Defendant failed to provide lawful meal and rest
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	periods; failed to reimburse expenses; failed to pay lawful wages upon termination or resignation; or engaged unfair business practices, or is subject to PAGA penalties during the Covered Period.
ASK TO BE EXCLUDED (OPT OUT)	Exclude yourself from this lawsuit. Keep your rights to file a separate claim against RECON360, LLC. If you ask to be excluded, you <u>will not</u> receive a share of the settlement proceeds, but you keep any rights you may have to bring your own suit against RECON360, LLC for the same legal claims in this lawsuit.
OBJECT	Object to the terms of this Settlement.

**Your options are explained in this notice.
To opt out or object, you must act by XXXX.**

1. Why did I get this notice?

A proposed settlement has been reached in a class action lawsuit that was brought on behalf of RECON360, LLCs' employees. You have received this notice because RECON360, LLC's records indicate that you are a member of this class.

2. What is this lawsuit about?

This lawsuit was filed on September 22, 2020 on behalf of all persons who are employed or have been employed as an hourly employee by RECON360, LLC in the State of California. The operative complaint alleges class-wide causes of action against RECON360, LLC for failure to provide lawful meal and rest periods under Labor Code §§ 226.7 and 512; failure to reimburse expenses pursuant to Labor Code §2802; failure to pay lawful wages upon termination or resignation under Labor Code § 203; and unfair business practices under Business & Professions Code § 17200 et seq.; and penalties under the Labor Code Private Attorneys General Act, Labor Code § 2698 et seq.

3. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiff's allegations or Defendant's defenses.

4. Why did this case settle?

The Parties reached a settlement in order to avoid the risk, inconvenience, and expense of further litigation. Plaintiff and his attorneys believe the proposed settlement is fair, adequate and in the best interest of the class members to whom it applies given the outcome of their investigation, the consumption of time and resources required in connection with further litigation, and the uncertainty in the law governing some of the claims presented. Although Defendant disputes Plaintiff's claims and asserts that it has complied with all of its legal obligations toward its

employees, Defendant has also concluded that further litigation would be protracted and expensive, and would also divert management and employee time.

5. What are the terms of the settlement and how much will I receive?

The Gross Settlement Amount is \$700,000.00. Under the proposed settlement, the following amounts will be deducted before any payments are made to employees, subject to final approval by the Court:

- Attorneys' fees: \$233,333.33
- Litigation Costs: \$10,000.00
- Settlement Administration Costs: \$15,000.00
- Named Plaintiff Enhancement Award to Named Plaintiff: \$5,000.00
- Penalties to the Labor & Workforce Development Agency: \$18,750.00

After these deductions, it is anticipated that \$411,666.67 will be available for payment to the Settlement Class members receiving this notice ("Net Settlement Amount").

Each Class Member's Individual Settlement Amounts shall be determined on a pro rata basis based upon the number of workweeks during which the employee worked in proportion to the aggregate number of workweeks by all Settlement Class members.

All Individual Settlement Amounts will be allocated as follows: 1/3 (33%) to settlement of wage claims, 1/3 (33%) to settlement of claims for interest, and 1/3 (33%) to settlement of claims for statutory penalties. There will be normal tax withholdings from the 1/3 portion of your Settlement Amount that is allocated to wage claims.

According to XXX's records, the total number of pay periods that you worked as an employee *during the relevant time period* is _____. If you disagree with this information and would like someone to look into the matter, please follow the procedure below. Based on these pay periods, your estimated settlement amount is _____.

6. What if I disagree with the number of pay periods shown above?

If you believe the information in the notice is incorrect regarding the number of pay periods, you will need to write a letter setting forth the number of pay periods that you believe are correct. You may attach any relevant documentation in support thereof. You must mail your letter to:

Settlement Administrator
c/o <<Name.of.Claims.Admin>>

You must submit such information by XXXX. Class Counsel and the Settlement Administrator will work together in good faith and do their best to promptly resolve the dispute based on available records. In the event they are unable to resolve any dispute under this Section, the Settlement Administrator shall review all information, material and documents and make a decision regarding the dispute.

7. What do I have to do to receive a share of the settlement?

However, it is advisable to confirm your current mailing address with the Settlement Administrator in order to ensure you receive your settlement share. You will be covered by the release summarized in Section 8, below.

8. What rights am I giving up?

The claims you will Release by doing nothing are: any and all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorney's fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged, or that reasonably could have arisen out of the same facts alleged in the Action, including: (1) Failure to Provide Meal Breaks Pursuant to Labor Code §§ 226.7 and 512; (2) Failure to Provide Rest Breaks Pursuant to Labor Code §§ 226.7; (3) Failure to Reimburse Expenses Pursuant to Labor Code § 2802; (4) Penalties Pursuant to Labor Code § 203; (5) Violation of Business & Professions Code § 17200; (6) Penalties Pursuant to Labor Code §2699, et seq. ("PAGA"). (collectively, the "Released Claims")

9. What if I do not wish to be involved?

Anyone not wishing to participate in the settlement may exclude himself or herself ("opt out") by completing, signing, and mailing a letter indicating that they do not want to participate in the settlement to the Settlement Administrator, <<Name.of.Claims.Admin>>, by XXXX.

Settlement Administrator
c/o <<Name.of.Claims.Admin>>

If your Request for Exclusion is postmarked after XXXX, it will be rejected, and you will be a Class Member and be bound by the settlement terms and release. Anyone who submits a timely and valid Request for Exclusion shall not be deemed a Class Member and will not receive any payment as part of this settlement. Such persons will keep any rights to sue RECON360, LLC separately about the claims made in this lawsuit.

10. What if I have an objection?

You may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing at your expense, either in person, telephonically, or through an attorney, provided you notify the Court of your intention to do so. All written objections, supporting papers and/or notices of intent to appear at the Final Approval Hearing must (a) clearly identify the case name and number ([*Carlos Humberto Carrillo Carrillo Diaz v. Recon360, LLC*], Case Number [20CV370603]), (b) be submitted to the Court either by mailing the objection to: Clerk of the Court, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, or by filing in person at the same location; (c) also be mailed to the law firms identified [Kingsley & Kingsley, APC, 16133 Ventura Blvd., Suite 1200, Encino, CA 91436, and HOGE, FENTON, JONES & APPEL, INC., 60 South Market Street, Suite 1400, San Jose, CA 95113.] and (d) be filed or postmarked on or before XXXXXX, 2021."

<u>Class Counsel:</u> Eric B. Kingsley, Esq. Kelsey M. Szamet, Esq.	<u>Counsel for RECON360, LLC</u> HOGE, FENTON, JONES & APPEL, INC. Sarju A. Naran, Esq.
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Kingsley & Kingsley, APC 16133 Ventura Blvd., Suite 1200 Encino, CA 91436 Telephone: (818) 990-8300 Fax: (818) 990-2903	Jenn M. Protas, Esq. Maysa Saeed, Esq. 60 South Market Street, Suite 1400 San Jose, CA 95113-2396 Telephone: (408) 287-9501 Facsimile: (408) 287-2583
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11. Do I need a lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. However, if you want your own lawyer, you are free to hire one at your own expense.

12. What happens next in the case?

The Settlement has only been preliminarily approved. The Court will hold a hearing in Dept. 1 of the Santa Clara County Superior Court, Santa Clara Courthouse, located at 191 N. First Street on _____, 2021, at XXXX on _____, 2021, at XXXX (Pacific Time), to consider any objections and determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs, Plaintiff's Enhancement Awards, and the costs of claims administration. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing, but you may appear in person.

13. How can I receive more information?

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Settlement Agreement, which is on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Superior Court of California, County of Santa Clara's Electronic Filing and Service Website at www.scefiling.org, or (b) in person at Records, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures, or you may contact Class Counsel or the Settlement Administrator. Finally, further information is also available at www.scscourt.org.

Please do not telephone the Court, the Office of the Clerk, or Recon 360's counsel for information regarding this settlement or the claim process.

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EXHIBIT “B”

KINGSLEY & KINGSLEY, APC
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KELSEY M. SZAMET, Esq. (SBN 260264)
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Tel: (818) 990-8300, Fax (818) 990-2903

DAVTYAN LAW FIRM, INC.
EMIL DAVTYAN, Esq. (SBN-299363)
emil@davtyanlaw.com
880 E. Broadway
Glendale, CA 91205
Tel: (818) 875-2008, Fax: (818) 722-3974

Attorneys for Plaintiff and the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

CARLOS HUMBERTO CARRILLO DIAZ
an individual, on behalf of himself and
others similarly situated

PLAINTIFF,

v.

RECON360, LLC; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

CASE NO. 20CV370603

[Case Assigned for All Purposes to Hon.
Sunil R. Kulkarni in Dept. 1]

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: XX
Time: XX
Dept.: 1

Complaint Filed: September 22, 2020
FAC Filed: November 30, 2020
Trial Date: None Scheduled

1 The Motion for Preliminary Approval of the Joint Stipulation of Class Action Settlement
2 and Release of Claims ("Settlement Agreement"), a copy of which is attached as to the Declaration
3 of Kelsey M. Szamet as Exhibit "1", came before this Court on XXXX. The Court, having
4 considered the papers submitted in support of the motion of the parties, **HEREBY ORDERS THE**
5 **FOLLOWING:**

6 1. The Court grants preliminary approval of the Settlement Agreement and the
7 Settlement Class based upon the terms set forth in the Settlement Agreement filed herewith. The
8 Settlement is fair, adequate, and reasonable to the Class. The Court finds that: (a) the Agreement
9 resulted from extensive arm's length negotiations; and (b) the Agreement is sufficient to warrant
10 notice of the Settlement to persons in the Settlement Class and a full hearing on the final approval
11 of the Settlement.

12 2. Settlement "Class Member(s)" means: "All persons who are employed or have been
13 employed as an hourly employee by RECON360, LLC, in the State of California during the
14 Covered Period."

15 3. The Covered Period is from September 22, 2016 to July 30, 2021.

16 4. The PAGA Period is September 22, 2019 to July 30, 2021.

17 5. The Settlement falls within the range of reasonableness and appears to be
18 presumptively valid, subject only to any objections that may be raised at the final fairness hearing
19 and final approval by this Court.

20 6. The Court makes the following preliminary findings for settlement purposes
21 only:

- 22 A. The Settlement Class, which consists of approximately 265 persons, is so
numerous that joinder of all members is impracticable;
- 23 B. There appear to be questions of law or fact common to the Settlement
24 Class for purposes of determining whether this Settlement should be
approved;
- 25 C. Plaintiff's claims appear to be typical of the claims being resolved through
26 the proposed settlement;
- 27 D. Plaintiff appears to be capable of fairly and adequately protecting the
28 interests of the Settlement Class Members in connection with the proposed
settlement;

1 E. Common questions of law and fact appear to predominate over questions
2 affecting only individual persons in the Settlement Class. Accordingly,
3 the Settlement Class appears to be sufficiently cohesive to warrant
4 settlement by representation; and

5 F. Certification of the Settlement Class appears to be superior to other
6 available methods for the fair and efficient resolution of the claims of the
7 Settlement Class.

8 7. The Court approves, as to form and content, the Notice Packet to Class Members
9 in substantially the form attached to the Settlement Agreement as Exhibit A (Class Notice).

10 8. The Court approves the procedure for Class Members to object to the Settlement as
11 set forth in the Class Notice to Class Members.

12 9. The Court directs the mailing of the Notice Packet to Class Members by first class
13 mail to the Class Members in accordance with the Implementation Schedule set forth below. The
14 Court finds that the dates selected for the mailing and distribution of the Notice, as set forth in the
15 Implementation Schedule, meet the requirements of due process and provide the best notice
16 practicable under the circumstances and shall constitute due and sufficient notice to all persons
17 entitled thereto.

18 10. The Court confirms Eric B. Kingsley and Kelsey M. Szamet of Kingsley &
19 Kingsley, APC and Emil Davtyan of Davtyan Law Firm, Inc. as Class Counsel.

20 11. The Court confirms CARLOS HUMBERTO CARRILLO DIAZ as the Named
21 Plaintiff.

22 12. The Court approves <<Name.of.Claims.Admin>> as the Settlement Administrator.

23 13. The Court orders that pursuant to the California Private Attorneys General Act,
24 Labor Code §§ 2698, et seq. ("PAGA"), statutory notice of this Settlement has been and will
25 continue to be given to the Labor & Workforce Development Agency.

26 14. The Court orders the following Implementation Schedule for further proceedings:

27 a.	Preliminary Approval	XXXX
28 b.	Deadline for Defendant to Provide Class Data to Settlement Administrator.	20 business days from Preliminary Approval

c.	Mail Notice to Class Members	14 calendar days from Settlement Administrator's receipt of Class Data
d.	Deadline for Class Members to Postmark Any Exclusion	60 calendar days from mailing of Notice Packet (judged by postmark date)
e.	Deadline for Class Members to Postmark Any Objection	60 calendar days from mailing of Notice Packet (judged by postmark date)
f.	Deadline for Class Counsel to file Motion for Final Approval of Class Settlement	To be determined by the Court
g.	Deadline for Class Counsel to file Motion for Class Counsel Award	To be determined by the Court
h.	Final Approval Hearing	To be determined by the Court

15. IT IS FURTHER ORDERED that if the Court does not execute and file an Order of Final Approval and Judgment, or if the Effective Date of Settlement, as defined in the Settlement Agreement, does not occur for any reason, the Settlement Agreement and the proposed Settlement that is the subject of this Order shall become null, void, unenforceable and inadmissible in any judicial, administrative or arbitral proceeding for any purpose, and all evidence, court orders and proceedings had in connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the litigation, as more specifically set forth in the Settlement Agreement.

16. IT IS FURTHER ORDERED that, pending further Order of this Court, all proceedings in this matter except those contemplated herein and in the Settlement Agreement are hereby stayed.

17. The Court expressly reserves the right to adjourn or continue the Final Fairness Hearing from time to time without further notice to members of the Settlement Class.

DATED: _____

JUDGE OF THE SUPERIOR COURT

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EXHIBIT "C"

KINGSLEY & KINGSLEY, APC
ERIC B. KINGSLEY, Esq. (SBN 185123)
eric@kingsleykingsley.com
KELSEY M. SZAMET, Esq. (SBN 260264)
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Attorneys for Plaintiff and the Proposed Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

CARLOS HUMBERTO CARRILLO DIAZ,
an individual, on behalf of himself and others
similarly situated,

PLAINTIFF,

v.

RECON360, LLC; and DOES 1 thru 50,
inclusive,

DEFENDANTS.

CASE NO. 20CV370603

[Case Assigned for All Purposes to Hon.
Sunil R. Kulkarni in Dept. 1]]

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND ENTERING
JUDGMENT**

Date: XX
Time: XX
Dept.: 1

Complaint Filed: September 22, 2020
FAC Filed: November 30, 2020
Trial Date: None Scheduled

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 The above captioned Action is a class action lawsuit brought by Plaintiff CARLOS
3 HUMBERTO CARRILLO DIAZ ("Plaintiff") against Defendant RECON360, LLC
4 ("Defendant"). The Motion for Final Approval of Class Action Settlement came before this Court
5 on XXXX.

6 **WHEREAS**, Judge Sunil R. Kulkarni granted preliminary approval of the Joint Stipulation
7 of Class Action Settlement and Release of Claims ("Settlement Agreement"), attached to the
8 concurrently-filed Declaration of Kelsey M. Szamet as Exhibit "1", on XX.

9 **WHEREAS**, Plaintiff CARLOS HUMBERTO CARRILLO DIAZ has applied to the
10 Court for an order granting final approval of the Settlement Agreement.

11 **WHEREAS**, the Settlement Agreement sets forth the terms and conditions of the proposed
12 Settlement and for entry of an order of final approval and entry of final judgment thereon. The
13 Court having read and considered Plaintiff's Motion for Final Approval of Class Action
14 Settlement; Motion for Approval of Approval of Attorneys' Fees and Costs; the Declarations of
15 Kelsey M. Szamet, Carlos Humberto Carrillo Diaz, and XXXX of <<Name.of.Claims.Admin>>;
16 and the supporting documents annexed thereto, now finds:

17 **NOW THEREFORE, GOOD CAUSE APPEARING, IT IS HEREBY ORDERED:**

18 1. The Court has personal jurisdiction over all Settlement Class Members and that the
19 Court has subject matter jurisdiction to approve the Settlement;

20 2. The terms of the Settlement are fair, just, reasonable, and adequate, consistent and
21 in compliance with California Code of Civil Procedure, the California and United States
22 Constitutions (including the due process clauses), the California Rules of Court and any other
23 applicable law, and in the best interest of each of the Parties and the Class members and is hereby
24 finally approved in all respects.

25 3. The Parties are hereby directed to perform the terms of the Settlement as described
26 in the Settlement Agreement according to its terms and provisions.

27 4. The Settlement Agreement is binding on Plaintiff and all other Settlement Class
28 Members, except those timely and properly filed Requests for Exclusions, as well as their heirs,

1 executors, and administrators, successors, and assigns.

2 5. There are XX (XX) valid requests for exclusion.

3 6. It is ordered that the Settlement Class is certified for settlement purposes only. The
4 Court finds that an ascertainable class exists and a well-defined community of interest exists in the
5 questions of law and fact involved because in the context of the Settlement: (i) there are questions
6 of law and fact common to the Class Members which, as to the Settlement and all related matters,
7 predominate over any individual questions; (ii) the Claims of Plaintiff are typical of the Claims of
8 the Class members; and (iii) in negotiating, entering into and implementing the Settlement,
9 Plaintiff and Plaintiff's Attorneys have fairly and adequately represented and protected the interest
10 of the Class Members.

11 7. The Court finds that the Notice and notice methodology implemented pursuant to
12 this Settlement (i) constituted the best practicable notice; (ii) constituted notice that was reasonably
13 calculated, under the circumstances, to apprise Settlement Class Members of the pendency of the
14 Action, their right to object to or exclude themselves from the proposed Settlement and their right
15 to appear at the Final Settlement Hearing; (iii) were reasonable and constituted due, adequate and
16 sufficient notice to all persons entitled to receive notice; and (iv) met all applicable requirements
17 of the California Code of Civil Procedure, the California and United States Constitution (including
18 the Due Process Clause), the California Rules of Court and any other applicable law.

19 8. The Settlement Class is hereby made final. The Settlement Class is defined as: "All
20 persons who are employed or have been employed as an hourly employee by RECON360, LLC,
21 in the State of California during the Covered Period." ("Proposed Class").

22 9. The "Covered Period" or "Release Period" is the period of September 22, 2019 to
23 July 30, 2021.

24 10. The Settlement Agreement is not an admission by Defendant, nor is this Final Order
25 a finding of the validity of any allegations or of any wrongdoing by Defendant. Neither this Final
26 Order, the Settlement, nor any document referred to herein, nor any action taken to carry out the
27 Settlement, shall be construed or deemed an admission of liability, culpability, negligence, or
28 wrongdoing on the part of Defendant.

1 11. Pursuant to the Settlement Agreement, upon entry of this Final Order, Plaintiff and
2 each Settlement Class Member shall fully release and discharge the Released Parties pursuant to
3 the following release, which provides:

4 any and all claims, debts, liabilities, demands, obligations, penalties,
5 guarantees, costs, expenses, attorney's fees, damages, action or
6 causes of action of whatever kind or nature, whether known or
7 unknown, contingent or accrued, that are alleged, or that reasonably
8 could have arisen out of the same facts alleged in the Action,
9 including: (1) Failure to Provide Meal Breaks Pursuant to Labor
10 Code §§ 226.7 and 512; (2) Failure to Provide Rest Breaks Pursuant
11 to Labor Code §§ 226.7; (3) Failure to Reimburse Expenses
12 Pursuant to Labor Code § 2802; (4) Penalties Pursuant to Labor
13 Code § 203; (5) Violation of Business & Professions Code § 17200;
14 (6) Penalties Pursuant to Labor Code §2699, et seq. ("PAGA").

15 12. Plaintiff and all Settlement Class Members who have not been timely and properly
16 excluded from the Settlement Class, and any person acting on their behalf, are permanently barred
17 and enjoined from: (i) filing, commencing, prosecuting, intervening in, participating in (as class
18 members or otherwise), or receiving any benefits or other relief from, any other lawsuit, in any
19 state or federal court, arbitration, or administrative, regulatory or other proceeding or order in any
20 jurisdiction based on the Released Claims; and (ii) organizing such non-excluded Class Members
21 into a separate class for purposes of pursuing as a purported class action (including by seeking to
22 amend a pending complaint to include class allegations, or by seeking class certification in a
23 pending action) any lawsuit based on or relating to the Released Claims;

24 13. The Settlement Agreement provides that the Gross Settlement Amount is seven
25 hundred thousand dollars and zero cents (\$700,000.00). The Net Settlement Amount shall be
26 determined according to the terms of the Settlement Agreement.

27 14. The Court orders the calculations and the payments to be made and administered in
28 accordance with the terms of the Settlement Agreement.

 15. The Court hereby finds that Plaintiff and Class Counsel adequately represented the
Settlement Class for purposes of entering into and implementing the settlement. The Court hereby
confirms Kingsley & Kingsley, APC and Emil Davtyan of Davtyan Law Firm, Inc. as Class
Counsel in the Action.

1 16. The Court hereby finds the unopposed application of Class Counsel for a costs and
2 attorneys' fees award provided for under the proposed Settlement to be fair and reasonable in light
3 of all the circumstances and is hereby granted. Of the Gross Settlement Amount, \$233,333.33
4 shall be paid for attorney fees and \$10,000.00 shall be paid for litigation costs.

5 17. The unopposed application of Class Counsel for an Enhancement Award is hereby
6 granted. Of the Gross Settlement Amount, a \$5,000.00 Enhancement Award shall be allocated to
7 Named Plaintiff CARLOS HUMBERTO CARRILLO DIAZ.

8 18. The unopposed application of Class Counsel for claims administration fees to
9 <<Name.of.Claims.Admin>> is hereby granted. Of the Gross Settlement Amount, \$15,000.00
10 shall be paid for settlement administration fees.

11 19. The Court approves the PAGA Penalties in the amount of \$25,000.00. The Court
12 approves 75% of the PAGA Penalties being allocated to the LWDA in the amount of \$18,750.00.
13 The Court further directs that the remaining 25% of the PAGA Penalties, in the amount of \$6,250.00
14 shall be allocated to the eligible Settlement Class Members who worked during the PAGA period
15 on a per pay period, pro rata basis.

16 20. If a Settlement Class Member does not cash his or her settlement check within 180
17 days, the uncashed funds shall be transmitted by the Settlement Administrator to the non-profit
18 Bet Tzedek pursuant to Cal. Code Civ. Proc. section 384(b)(3)(C). The Court finds there is a
19 strong nexus between the mission of Bet Tzedek and the interests of the Settlement Class members.

20 21. Defendant shall have no further liability for costs, expenses, interest, attorneys'
21 fees, or for any other charge, expense, or liability, except as provided for in the Settlement
22 Agreement.

23 22. The Parties, are authorized, without further approval from the Court, to agree to
24 and to adopt such amendments, modifications and expansions of this Stipulation and all exhibits
25 attached hereto as (i) are consistent with the Final Judgment; and (ii) do not limit the rights of
26 Settlement Class Members under the Stipulation.

27 23. Pursuant to California Rule of Court Rule 3.769(h) and C.C.P. §664.4, the Court
28 shall retain continuing jurisdiction over the Actions, the Parties, and the Settlement Class, as well

1 as the administration and enforcement of the terms of the Settlement of this action to enforce the
2 terms of the judgment. Without affecting the finality of the Final Judgment, the Court shall retain
3 continuing jurisdiction over the Actions, the Parties, and the Settlement Class, as well as the
4 administration and enforcement of the Settlement. Any disputes or controversies arising with
5 respect to the interpretation, consummation, enforcement, or implementation of the Settlement
6 shall be presented by motion to the Court; provided however, that nothing in this Part shall restrict
7 the ability of the Parties to exercise their rights to terminate the Settlement pursuant to the terms
8 of the Settlement Agreement.

9 24. This Final Order shall constitute a final judgment.

10 25. The Court hereby dismisses the action (including all individual claims and Released
11 Claims presented thereby) with prejudice, without fees or costs to any party except as provided in
12 the Settlement Agreement.

13
14 **DATED:** _____

JUDGE OF THE SUPERIOR COURT

EXHIBIT "3"

	A	C	D	E	F	G	H	I	J	K	L
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6	Firm Name	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med	Firmwide Billing Rate Med
7	Adams and Reese	\$500	\$225	\$255	\$165	\$198	\$305	\$278	\$197	\$300	\$275
8	Andrews Kurth	\$795	\$400	\$460	\$210						
9	Arent Fox	\$675	\$395	\$440	\$240						
10	Armstrong Teasdale	\$450	\$295	\$295	\$165						
11	Baker, Donelson, Bearman, Caldwell & Berkowitz	\$525	\$230	\$315	\$160	\$205	\$325	\$280	\$200	\$320	\$270
12	Barnes & Thornburg	\$485	\$265	\$295	\$180	\$225	\$350	\$302	\$220	\$355	\$310
13	Bass, Berry & Sims PLC	\$575	\$300	\$285	\$180						
14	Best Best & Krieger	\$495	\$290	\$350	\$160	\$203	\$275	\$212	\$235	\$390	\$265
15	Bond, Schoeneck & King	\$435	\$200	\$250	\$140	\$179	\$294	\$253	\$175	\$295	\$300
16	Bradley Arant Rose & White	\$520	\$240	\$280	\$180	\$211	\$335	\$258	\$205	\$330	\$260
17	Briggs and Morgan	\$500	\$250	\$325	\$195	\$233	\$391	\$344	\$230	\$395	\$350
18	Brinks Hofer Gilson & Lione	\$650	\$300	\$410	\$180	\$273	\$479	\$365	\$250	\$485	\$350
19	Broad and Cassel	\$450	\$250	\$310	\$165	\$232	\$361	\$294	\$225	\$360	\$275
20	Brownstein Hyatt Farber Schreck	\$675	\$260	\$270	\$170	\$219	\$373	\$308	\$218	\$390	\$325
21	Bryan Cave	\$695	\$320	\$495	\$165	\$295	\$493	\$394	\$295	\$490	\$375
22	Buchanan Ingersoll & Rooney	\$750	\$320	\$460	\$150						
23	Bullivant Houser Bailey	\$500	\$225	\$350	\$150	\$240	\$285	\$260	\$220	\$275	\$250
24	Burr & Forman	\$470	\$250	\$305	\$175	\$235	\$340				
25	Butzel Long	\$575	\$210	\$350	\$155						
26	Carlton Fields	\$600	\$280	\$375	\$190	\$243	\$406	\$312	\$245	\$405	\$300
27	Cooley Godward Kronish	\$875	\$470	\$555	\$250						
28	Covington & Burling	\$800	\$510	\$525	\$240						
29	Cozen O'Connor	\$750	\$230	\$530	\$155	\$283	\$420	\$350	\$280	\$425	\$340
30	Curtis, Mallet-Prevost, Colt & Mosle	\$735	\$635	\$560	\$280	\$361	\$666	\$396	\$360	\$685	\$480
31	Davis Wright Tremaine	\$695	\$300	\$390	\$170	\$257	\$430	\$375	\$250	\$423	\$375
32	Day Pitney	\$650	\$350	\$525	\$210	\$306	\$472	\$374	\$310	\$465	\$375
33	Dickinson Wright	\$530	\$260	\$275	\$170						
34	Dickstein Shapiro Morin & Oshinsky	\$825	\$425	\$440	\$225	\$336	\$552	\$438	\$360	\$550	\$425
35	Dinsmore & Shohl	\$475	\$235	\$285	\$155	\$199	\$342	\$275	\$190	\$340	\$250
36	Dorsey & Whitney	\$750	\$220	\$470	\$145	\$274	\$463	\$375	\$260	\$463	\$365
37	Duane Morris	\$705	\$315	\$465	\$150	\$310	\$475	\$416	\$305	\$470	\$415
38	Dykema Gossett	\$625	\$245	\$390	\$185	\$272	\$403				
39	Edwards Angell Palmer & Dodge	\$700	\$350	\$450	\$170	\$293	\$515	\$407	\$280	\$513	\$400
40	Epstein Becker & Green	\$675	\$280	\$440	\$155	\$290	\$471	\$380	\$280	\$475	\$395
41	Fenwick & West	\$775	\$500	\$500	\$245	\$360	\$590	\$395	\$370	\$600	\$410
42	Foley & Lardner	\$855			\$185	\$387	\$550	\$476	\$375	\$550	\$475
43	Ford & Harrison	\$560	\$325	\$395	\$210						
44	Fowler White Boggs Banker	\$500	\$230	\$325	\$150	\$217	\$345	\$303	\$210	\$340	\$300
45	Fox Rothschild	\$595	\$240	\$440	\$190						

	A	C	D	E	F	G	H	I	J	K	L
	Firm Name	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med	Firmwide Billing Rate Med
46											
47	Frost Brown Todd	\$455	\$225	\$255	\$145	\$180	\$303	\$256	\$170	\$295	\$255
48	Gardere Wynne Sewell	\$715	\$350	\$425	\$220	\$292	\$472	\$405	\$265	\$475	\$405
49	GrayRobinson, PA	\$500	\$175	\$250	\$250	\$198	\$319	\$224			
50	Greenberg Traurig, PA	\$850	\$300	\$505	\$175	\$311	\$490	\$407	\$310	\$500	\$415
51	Harris Beach	\$475	\$250	\$275	\$140						
52	Hiscock & Barclay LLP	\$375	\$220	\$250	\$160	\$185	\$278	\$245	\$180	\$280	\$250
53	Hodgson Russ	\$645	\$215	\$395	\$155	\$219	\$337	\$254	\$205	\$350	\$250
54	Hogan & Hartson	\$850	\$300	\$525	\$150	\$385	\$600	\$490	\$370	\$590	
55	Holland & Hart	\$585	\$275	\$345	\$165	\$269	\$388	\$335	\$275	\$385	\$335
56	Holme Roberts & Owen	\$635	\$285	\$420	\$195	\$284	\$412	\$353	\$265	\$410	\$345
57	Howard, Rice, Nemerovski, Canady, Falk & Rabkin	\$775	\$495	\$485	\$275						
58	Hughes Hubbard & Reed	\$825	\$595	\$560	\$240						
59	Husch & Eppenberger	\$425	\$190	\$260	\$130	\$179	\$297	\$248	\$175	\$295	\$245
60	Jackson Lewis	\$575	\$235	\$450	\$210						
61	Jenner & Block LLP	\$900	\$450	\$425	\$275	\$327	\$562		\$325	\$525	
62	Jones, Walker, Waechter, Poitevent, Carrere & Denegre	\$600	\$210	\$225	\$150						
63	Kelley Drye & Warren	\$800	\$400	\$500	\$255						
64	Knobbe, Martens, Olson & Bear	\$645	\$340	\$420	\$215						
65	Lane Powell Moss & Miller	\$515	\$300	\$300	\$205	\$255	\$370	\$345	\$255	\$370	\$345
66	Lathrop & Gage	\$450	\$225	\$300	\$140	\$185	\$300	\$215	\$185	\$300	\$260
67	Leonard, Street and Deinard	\$500	\$300	\$300	\$185						
68	Lewis, Rice & Fingersh	\$425	\$240	\$295	\$130						
69	Lindquist & Vennum	\$500	\$260	\$260	\$165						
70	Locke, Lord, Bissell & Liddell	\$900	\$375	\$390	\$190	\$281	\$488	\$399	\$280	\$490	\$425
71	Loeb & Loeb	\$875	\$425	\$500	\$240	\$384	\$606	\$505	\$400	\$600	\$500
72	Lord, Bissell & Brook	\$690	\$335	\$410	\$200	\$299	\$473	\$410	\$300	\$475	\$415
73	Lowenstein Sandler	\$725	\$380	\$395	\$205						
74	Luce, Forward, Hamilton & Scripps	\$725	\$325	\$450	\$220	\$281	\$465	\$381	\$280	\$475	\$395
75	Manatt, Phelps & Phillips	\$785	\$520	\$480	\$265	\$395	\$600	\$518	\$415	\$590	\$550
76	Marshall, Dennehey, Warner, Coleman & Goggin	\$400	\$135	\$300	\$120						
77	McCarter & English LLP	\$650	\$325	\$395	\$205						
78	McElroy Deutsch, Mulvaney & Carpenter	\$450	\$295	\$225	\$135	\$180	\$250	\$195	\$165	\$235	\$215
79	McKee Nelson	\$920	\$635	\$595	\$375	\$446	\$760	\$489	\$455	\$755	\$475
80	Michael Best & Friedrich	\$550	\$225	\$300	\$185	\$234	\$363	\$321	\$235	\$350	\$325
81	Miles & Stockbridge	\$535	\$315	\$405	\$205	\$260	\$397				
82	Miller & Martin	\$580	\$230	\$295	\$160	\$201	\$338	\$306	\$195	\$340	\$320
83	Miller, Canfield, Paddock and Stone, PLC	\$595	\$265	\$340	\$160	\$225	\$400	\$285	\$220	\$400	\$335
84	Montgomery, McCracken, Walker & Rhoads	\$575	\$320	\$320	\$195	\$260	\$419	\$360			
85	Moore & Van Allen	\$765	\$265	\$330	\$175						
86	Morgan, Lewis & Bockius	\$850	\$375	\$575	\$200						
87	Morris, Manning & Martin	\$625	\$350	\$400	\$180	\$285	\$436	\$380	\$310	\$395	\$440
88	Nexsen Pruet Jacobs & Pollard	\$420	\$220	\$250	\$150						
89	Ogletree, Deakins, Nash, Smoak & Stewart	\$575	\$270	\$360	\$200	\$256	\$348	\$312			
90	Patton Boggs	\$920	\$320	\$520	\$205	\$375	\$536	\$456	\$385	\$525	\$455
91	Pepper Hamilton	\$750	\$335	\$425	\$200						
92	Perkins Coie	\$805	\$205	\$500	\$145						

	A	C	D	E	F	G	H	I	J	K	L
	Firm Name	Partner Billing Rate High	Partner Billing Rate Low	Associate Billing Rate High	Associate Billing Rate Low	Associate Billing Rate Average	Partner Billing Rate Average	Firmwide Billing Rate Average	Associate Billing Rate Med	Partner Billing Rate Med	Firmwide Billing Rate Med
93											
94	Phelps Dunbar	\$450	\$170	\$205	\$130	\$174	\$243	\$184	\$175		
95	Phillips Lytle	\$435	\$245	\$300	\$140	\$205	\$309	\$223	\$205	\$300	\$215
96	Polsinelli Shalton Welte Suelthaus	\$600	\$250	\$250	\$175						
97	Quarles & Brady	\$575	\$260	\$335	\$185	\$233	\$377	\$319	\$235	\$375	\$325
98	Reed Smith	\$825	\$350	\$510	\$200	\$374	\$558	\$395	\$350	\$525	\$385
99	Robinson & Cole	\$575	\$340	\$325	\$200	\$295	\$424	\$328	\$280	\$420	\$330
100	Roetzel & Andress	\$460	\$210	\$275	\$110	\$198	\$302	\$264	\$200	\$300	\$260
101	Rutan & Tucker	\$600	\$335	\$350	\$210						
102	Saul Ewing	\$750	\$315	\$485	\$180	\$273	\$426	\$357	\$255	\$415	\$365
103	Schnader Harrison Segal & Lewis	\$750	\$240	\$385	\$175						
104	Schulte Roth & Zabel	\$850	\$650	\$585	\$235	\$435	\$724		\$440	\$745	
105	Sheppard, Mullin, Richter & Hampton	\$795	\$425	\$550	\$260						
106	Shughart Thomson & Kilroy	\$475	\$235	\$225	\$160						
107	Shumaker, Loop & Kendrick	\$465	\$200	\$360	\$180	\$221	\$311	\$289	\$220	\$305	\$300
108	Sills Cummis Epstein & Gross	\$650	\$350	\$375	\$195						
109	Smith, Gambrell & Russell	\$575	\$250	\$345	\$175						
110	Snell & Wilmer	\$675	\$275	\$390	\$170	\$248	\$390				
111	Steptoe & Johnson PLLC	\$325	\$200	\$250	\$170						
112	Stinson Morrison Hecker	\$600	\$230	\$250	\$175	\$207	\$333	\$295	\$225	\$365	\$285
113	Stoel Rives	\$500	\$275	\$350	\$160	\$231	\$379	\$324	\$230	\$375	\$330
114	Strasburger & Price	\$560	\$225	\$395	\$200	\$234	\$367	\$326	\$223	\$363	\$322
115	Sullivan & Worcester	\$700	\$415	\$420	\$245	\$309	\$550	\$438	\$290	\$540	\$440
116	Sutherland Asbill & Brennan	\$715	\$375	\$415	\$215	\$292	\$511	\$335	\$280	\$500	\$305
117	Thacher Proffitt & Wood	\$785	\$525	\$495	\$275	\$353	\$674	\$428	\$365	\$700	\$395
118	Thompson & Knight	\$730	\$370	\$370	\$205	\$295	\$496	\$415	\$310	\$485	\$400
119	Thompson Coburn	\$580	\$265	\$370	\$170						
120	Ulmer & Berne	\$470	\$240	\$290	\$165	\$212	\$343	\$280			
121	Vedder, Price, Kaufman & Kammholz	\$650	\$335	\$410	\$205	\$281	\$430	\$372	\$370	\$425	\$365
122	Wiggin and Dana	\$590	\$295	\$350	\$195						
123	Williams Mullen	\$600	\$300	\$425	\$205						
124	Wilmer Cutler Pickering Hale and Dorr	\$1,000	\$475	\$495	\$215						
125	Winstead Sechrest & Minick	\$620	\$345	\$360	\$180						
126	Winston & Strawn	\$845	\$400	\$590	\$200	\$365	\$608	\$455	\$395	\$640	\$523
127	Womble Carlyle Sandridge & Rice	\$575	\$290	\$370	\$195	\$268	\$426	\$355	\$265	\$425	\$360

EXHIBIT "4"

THE WALL STREET JOURNAL.

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<http://www.wsj.com/articles/legal-fees-reach-new-pinnacle-1-500-an-hour-1454960708>

BUSINESS | LAW

Legal Fees Cross New Mark: \$1,500 an Hour

Billing rates for partners at elite corporate law firms keep rising, despite low inflation, weak demand



Documents filed in chapter 11 bankruptcy cases offer a rare public glimpse at the mounting hourly fees of law partners at elite corporate law firms. Above, the U.S. Bankruptcy Court in New York. *PHOTO: BRENDAN MCDERMID/REUTERS*

By **SARA RANDAZZO** and **JACQUELINE PALANK**

Updated Feb. 9, 2016 10:11 a.m. ET

The day of the \$1,500-an-hour lawyer has arrived.

Partners at some of the nation's top law firms are approaching—and, in a few cases, surpassing—that watershed billing rate, making the \$1,000-an-hour legal fees that once seemed so steep look quaint by comparison.

Despite low inflation and weak demand for legal services, rates at large corporate law firms have risen by 3% to 4% a year since the economic downturn, according to Citi Private Bank's Law Firm Group.

“We just raise them every year,” said John Altorelli, a finance lawyer at DLA Piper LLP in New York, who says the firm has set his rate at more than \$1,500 an hour. Mr. Altorelli, who filed for personal bankruptcy in 2014 to halt a legal battle with the estate of his former law firm, Dewey & LeBoeuf LLP, cracked the \$1,000-an-hour mark a decade ago. His fees have risen steadily ever since.

To soften the blow to clients, Mr. Altorelli does more than half his work on some kind of fixed-fee basis. “Using hourly rates is really anachronistic, but we still do it,” he said.

Raising rates ensures that law firms keep up with the competition and helps them wrest more money from clients, who routinely demand discounts for all but the most sensitive work.

“If you think of the rules of supply and demand, how in the world can they keep raising their rates?” said Jeff Carr, a former general counsel of oil-and-gas services and equipment company FMC Technologies who for years has been an outspoken opponent of hourly legal rates.

The rate creep has boosted law firms’ revenue at a time when many of them are under pressure from lower-cost legal-service providers and corporate clients that are keeping more legal work in-house. Revenue at law firms rose 4% last year, according to Wells Fargo Private Bank’s Legal Specialty Group, though demand rose just 0.5%.

“Lots of law firms will charge whatever the market can bear,” said the head of one of the nation’s 200 largest law firms.

Documents filed in chapter 11 bankruptcy cases offer a rare public glimpse at mounting fees. These court filings show the rates of partners specializing in corporate restructuring, as well as those with specialties like tax, litigation and corporate law.

A review of filings over the past three months in about two dozen bankruptcy cases shows that senior partners routinely charge between \$1,200 and \$1,300 an hour, with top rates at several large law firms exceeding \$1,400.

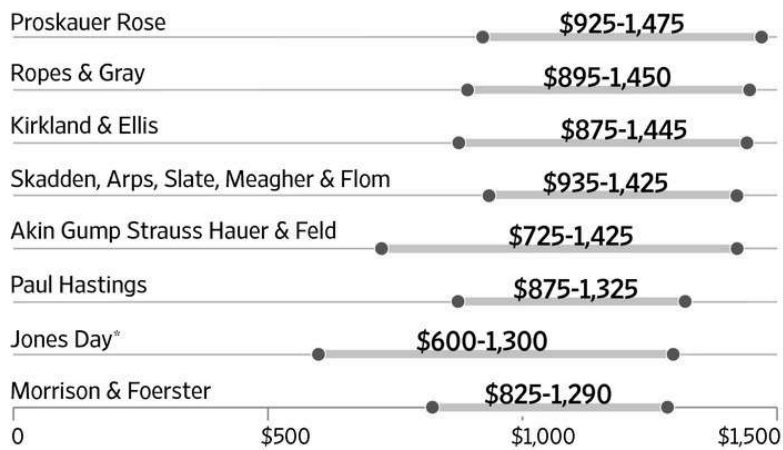
Proskauer Rose LLP’s hourly partner billing rate has climbed as high as \$1,475, while Ropes & Gray LLP’s tops out at \$1,450, court papers show.

Kirkland & Ellis LLP’s top hourly billing rate is now \$1,445. And rates at two firms—Akin Gump Strauss Hauer & Feld LLP and Skadden, Arps, Slate, Meagher & Flom LLP—peak at \$1,425 an hour.

Representatives of the law firms declined to comment.

Top Billers

Hourly rates of partners at top U.S. law firms now approach \$1,500.



*Includes partners and of counsel

Source: Bankruptcy court filings

THE WALL STREET JOURNAL.

Martin Bienenstock, who leads Proskauer's restructuring practice, called the \$1,225 an hour he billed clients last year "a market rate similar to my peers at other firms," and said he charges the same rate for nonbankruptcy work.

"The clients have kept coming back and growing during my 38-year career," he

said in an email, adding that clients generally prefer dealing directly with senior lawyers versus younger associates with lower rates.

In disclosing their firmwide rate increases, many firms tell the courts it is a standard way of keeping pace with "economic and other conditions." These include rising fixed costs, such as real estate and salaries.

In theory, a law-firm partner's pay rises and falls with the success of the firm. But, as competition for top talent increases, many firms feel the need to guarantee salaries or ensure a partner's pay doesn't fall, even in down years.

Still, only elite lawyers can charge \$1,400 an hour or more. Such rates are found almost exclusively in New York and other major markets, and only in the least price-sensitive fields like mergers and acquisitions, restructuring, tax, antitrust and high-stakes litigation and appeals.

For lawyers at the very top of those fields, hourly rates can hit \$1,800 or even \$1,950.

"You have a very few people at the very top where price is almost no object," said legal consultant Bruce MacEwen, who likens it to the way celebrities, sports stars and best-selling authors are paid. "It is a talent market."

Most lawyers in the U.S. fall well below those high marks. In a survey of in-house legal departments by BTI Consulting Group, the average highest rate paid for

law-firm partners was \$875 an hour in 2015, up more than 27% from three years earlier. Of the respondents, 38% had paid more than \$1,000 an hour for a lawyer, and the highest rate those in the survey paid was \$1,600 an hour.

For many firms, the stated rate is simply a starting point in discussions with corporate law departments. As a result, said legal consultant Ward Bower of Altman Weil, “sophisticated” law firms tend to implement annual rate increases to offset clients’ requests for discounts.

Such discounts are becoming more commonplace. A decade ago, law firms could typically get clients to pay around 92% of their stated rates, according to Thomson Reuters Peer Monitor. Last year, that fell to less than 83%.

Smaller companies can get squeezed the most on fees, because they don’t send enough work to any one law firm to get the best deals.

Companies with \$4 billion or more in annual revenue were twice as likely as those with less than \$100 million in revenue to use some form of alternative fee, according to a survey from industry trade group the Association of Corporate Counsel.

Some industry watchers view the raise-and-discount approach with skepticism.

“If clients are pushing back on rates, the answer isn’t to raise them” and then ask for a discount, Mr. MacEwen said. “The answer is to provide better total value.”

Write to Sara Randazzo at sara.randazzo@wsj.com and Jacqueline Palank at jacqueline.palank@wsj.com

EXHIBIT "5"

LAFFEY MATRIX

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			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* “Years Out of Law School” is calculated from June 1 of each year, when most law students graduate. “1-3” includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). “4-7” applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier “1-3” from June 1, 1996 until May 31, 1999, would move into tier “4-7” on June 1, 1999, and tier “8-10” on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT "6"

Printed from 



RECON 360, LLC adv. Diaz, Carrillo Carlos

Carlos Carrillo Diaz

██████████ . ██████████

\$ Historic Cost

\$8,017.27

Postage Cost

\$5.80

Created: 3/8/2022 at 10:51 AM

Trialworks TaskCode
Postage Cost

Date Incurred
3/8/2022

Payee
DocuSign

Court Cost

\$94.00

Created: 2/16/2022 at 8:37 AM

Trialworks TaskCode
costs

Date Incurred
2/2/2022

Payee
Courtcall

Description
Courtcall

Notes
HD: 2/10/22

Filing Fee

\$39.38

Created: 2/9/2022 at 12:46 PM

Trialworks TaskCode
filing fee

Date Incurred
1/25/2022

Payee
One Legal

Description
OLINV#03811076 Recon 1.25.22



Docs OLINV#03811076 Recon 1.25.22.pdf**Filing Fee**

\$25.45

Created: 2/9/2022 at 12:27 PM

Trialworks TaskCode

filing fee

Description

OLINV#03809866 Recon 1.25.22

Date Incurred

1/25/2022

Docs OLINV#03809866 Recon 1.25.22.pdf**Payee**

One Legal

Filing Fee

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Trialworks TaskCode

Filing Fee

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Date Incurred

11/19/2021

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One Legal

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Filing Fee

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Date Incurred

11/18/2021

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One Legal



Filing Fee

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Trialworks TaskCode

Filing Fee

Date Incurred

11/5/2021

Payee

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Docs

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Trialworks TaskCode

Filing Fee

Date Incurred

11/5/2021

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Postage Cost

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Created: 11/12/2021 at 11:35 AM

Trialworks TaskCode

Postage Cost

Date Incurred

10/25/2021

Payee

DocuSign

Filing Fee

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Created: 10/14/2021 at 9:50 AM

Trialworks TaskCode

Filing Fee

Date Incurred

10/5/2021



Payee

One Legal

Description

OLINV#03580952 R360 10.5.21

Docs OLINV#03580952 R360 10.5.21.pdf**Filing Fee**

\$26.48

*Created: 10/11/2021 at 3:20 PM***Trialworks TaskCode**

Filing Fee

Date Incurred

10/5/2021

Payee

One Legal

Description

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*Created: 8/31/2021 at 1:48 PM***Trialworks TaskCode**

Filing Fee

Date Incurred

8/3/2021

Payee

One Legal

Description

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\$22.36

*Created: 8/31/2021 at 1:39 PM***Trialworks TaskCode**

Filing Fee

Date Incurred

8/3/2021

Payee

One Legal

Description

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Research Cost

\$16.86

Created: 6/22/2021 at 12:35 PM

Trialworks TaskCode

Thomson Reuters Research

Payee

Thomson Reuters

Date Incurred

6/22/2021

Description

billing period of 5/1/21-5/31/21

Filing Fee

\$39.38

Created: 6/29/2021 at 2:37 PM

Trialworks TaskCode

Filing Fee

Description

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Date Incurred

5/27/2021

Docs OLINV#03316594 Recon 5.27.21.pdf**Payee**

One Legal

Filing Fee

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Created: 6/29/2021 at 1:50 PM

Trialworks TaskCode

Filing Fee

Description

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Date Incurred

5/26/2021

Docs OLINV#03312822 Recon 5.26.21.pdf**Payee**

One Legal

Filing Fee

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Created: 3/17/2021 at 3:25 PM

Trialworks TaskCode

One Legal Filing

Date Incurred

3/11/2021



Payee

One Legal

Description

OLINV#03161928 Recon 3.11.21

Docs OLINV#03161928 Recon 3.11.21.pdf

Filing Fee

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Created: 3/17/2021 at 3:21 PM

Trialworks TaskCode

One Legal Filing

Date Incurred

3/11/2021

Payee

One Legal

Description

OLINV#03159505 Recon 3.11.21

Docs OLINV#03159505 Recon 3.11.21.pdf

Mediation Cost

\$5,316.68

Created: 3/8/2021 at 8:24 AM

Trialworks TaskCode

Mediation Costs

Date Incurred

3/8/2021

Payee

JAMS

Description

JAMS INV#5605176 Recon360 paid 3.8.21

Docs JAMS INV#5605176 Recon360 paid 3.8.21.pdf

Filing Fee

\$38.75

Created: 2/4/2021 at 4:16 PM

Trialworks TaskCode

One Legal Filing

Date Incurred

1/15/2021

Payee

One Legal

Description

OLINV#03057052 Recon 1.15.21

Docs OLINV#03057052 Recon 1.15.21.pdf

Filing Fee

\$24.72

Created: 1/15/2021 at 3:28 PM

Trialworks TaskCode

One Legal Filing

Date Incurred

1/14/2021

Payee

One Legal

Description

OLINV#03052401 Recon 1.14.21

Docs OLINV#03052401 Recon 1.14.21.pdf

Court Cost

\$94.00

Created: 1/8/2021 at 3:36 PM

Trialworks TaskCode

Costs

Date Incurred

12/30/2020

Payee

Courtcall

Description

Courtcall

Notes

hearing date: 1/21/21

Docs CourtCallConfirmation RECON 360 - JA 1.21.21.pdf

Filing Fee

\$18.67

Created: 1/5/2021 at 2:59 PM

Trialworks TaskCode

One Legal Filing

Date Incurred

12/16/2020

Payee

One Legal

Description

OLINV#03006783 Recon 12.16.20

Docs OLINV#03006783 Recon 12.16.20.pdf

Filing Fee

\$19.67

Created: 12/8/2020 at 11:32 AM



Trialworks TaskCode

One Legal Filing

Date Incurred

11/30/2020

Payee

One Legal

Description

OLINV#02971672 Recon360 11.30.20

Docs OLINV#02971672 Recon360 11.30.20.pdf**Filing Fee**

\$35.75

*Created: 11/11/2020 at 12:12 PM***Trialworks TaskCode**

One Legal Filing

Date Incurred

10/28/2020

Payee

One Legal

Description

One Legal

Docs OLINV#02919418 Recon 10.28.20.pdf**Filing Fee**

\$17.67

*Created: 11/10/2020 at 12:51 PM***Trialworks TaskCode**

One Legal Filing

Date Incurred

10/27/2020

Payee

One Legal

Description

OLINV#02914923 Recon 10.27.20

Docs OLINV#02914923 Recon 10.27.20.pdf**Court Cost**

\$148.90

*Created: 11/11/2020 at 4:24 PM***Trialworks TaskCode**

On Call Filing

Date Incurred

10/15/2020

Payee

OnCall

Description

OCINV#181253 Recon 10.15.20



\$36.75

Trialworks TaskCode

Filing Fee

Payee

One Legal

Date Incurred

10/6/2020

Description

OLINV#02875938 Recon 10.6.20

\$17.67

Trialworks TaskCode

Filing Fee

Payee

One Legal

Date Incurred

10/5/2020

Description

OLINV#02870951 Recon 10.5.20

\$6.70

Trialworks TaskCode

COSTS

Payee

Postage

Date Incurred

9/23/2020

Description

month of September 2020

\$75.00

Trialworks TaskCode

Filing Fee

Payee

Labor and Work Force Development Agency

Date Incurred

9/22/2020

\$1,498.11

Trialworks TaskCode

Filing Fee

Date Incurred

9/22/2020



Payee	Description
One Legal	OLINV#02846579 Recon 9.22.20



Proof of Submission to the LWDA

EXHIBIT "7"

(PROOF OF SERVICE)
[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On May 17, 2022, I served all interested parties in this action the following documents described as: **DECLARATION OF KELSEY M. SZAMET IN SUPPORT OF PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS SETTLEMENT AND MOTION FOR APPROVAL OF ATTORNEYS' FEES AND COSTS** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

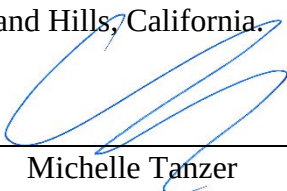
Sarju A. Naran Maysa Saeed Jackie Rivera sarju.naran@hogefenton.com maysa.saeed@hogefenton.com jackie.rivera@hogefenton.com Hoge, Fenton, Jones & Appel, Inc. 55 South Market Street, Suite 900 San Jose, CA 95113-2324	Emil Davtyan emil@davtyanlaw.com Davtyan Law Firm, Inc. 880 E. Broadway Glendale, CA 91205
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[XX] (BY ELECTRONIC SERVICE): I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[XX] (BY ELECTRONIC MAIL TRANSMISSION): I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the above email address(es).

[XX] (STATE): I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 17, 2022, at Woodland Hills, California.



Michelle Tanzer