

ZAKAY LAW GROUP, APLC
Shani O. Zakay (State Bar #277924)
3990 Old Town Avenue, Suite 204
San Diego, CA 92110
Telephone: (619) 255-9047
Facsimile: (858) 404-9203
Website: www.zakaylaw.com

JCL LAW FIRM, APC
Jean-Claude Lapuyade (State Bar #248676)
3990 Old Town Avenue, Suite 204
San Diego, CA 92110
Telephone: (619) 559-8292
Facsimile: (619) 559-8291
Website: www.jcl-lawfirm.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF EL DORADO

JESSICA BARACKMAN, an individual, on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

TEAZ N PLEAZ, INC., a California
Corporation dba SEDUCTIONS; and DOES 1
through 50, inclusive,

Defendant.

Case No. SC 20200179

**DECLARATION OF SHANI O. ZAKAY,
ESQ., IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY CLASS
ACTION SETTLEMENT APPROVAL**

Date: October 8, 2021
Time: 1:30 p.m.
Dept.: 4

*[Assigned for All Purposes to Judge Michael J.
McLaughlin]*

Action Filed: December 21, 2020

I, SHANI O. ZAKAY, declare as follows:

1. I am over eighteen years of age and if called as a witness, I could and would competently testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner of the law firm of Zakay Law Group, APC (hereinafter "Class Counsel"). I am counsel of record for Plaintiff Jessica Barackman, (hereafter "Plaintiff") in this wage and hour class action filed against Teaz N Pleaz, Inc. (hereinafter collectively "Defendant").

///

2. This declaration is being submitted in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement.

I. EXHIBITS

3. Attached hereto as **Exhibit "1"** is a true and correct copy of the fully executed Joint the Stipulation of Settlement of Class Action Claims and Release of Claims ("Agreement" or "Settlement Agreement"). Attached as **Exhibit "A"** to the Agreement is a true and correct copy of the proposed Class Notice.

4. Attached hereto as **Exhibit "2"** is a true and correct copy of the proof of filing with the Labor and Workforce Development Agency notice of this settlement with the Settlement Agreement and Motion for Preliminary Approval of Class Action and PAGA Action Settlement evidencing Class Counsel's compliance with California Labor Code Section 2699(1)(2).

II. INTRODUCTION

5. An objective evaluation of the Settlement confirms that the relief negotiated on behalf of the Settlement Class is fair, reasonable, and valuable. The Settlement was negotiated by the Parties at arm's length. The Settlement confers substantial benefits to the Settlement Class. The relief offered by the Settlement is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Class Members will not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being denied or of Defendant prevailing at trial. The entire Net Settlement Amount will be paid to all Settlement Class Members who do not opt out of the Settlement Class. Given there are approximately 167 Settlement Class Members, and assuming 100% participation, the average gross settlement recovery is approximately **\$687.60** (Net Settlement Amount divided by Settlement Class Members)

6. As discussed below, the proposed Settlement satisfies all criteria for preliminary settlement approval under California law and falls within the range of reasonableness. The average Individual Settlement Share to the Settlement Class meet or exceeds awards in similar wage and hour class actions. Moreover, the proposed Settlement Class is appropriate for provisional

1 certification. Accordingly, Plaintiff respectfully requests that this Court grant preliminary approval
2 of the Settlement.

3 **III. FACTS AND PROCEDURE**

4 **A. Overview of the Litigation**

5 7. Defendant operates a chain of adult novelty and lingerie brick and mortar stores and
6 online retail stores located throughout the United States with three locations in California, including
7 in El Dorado County.

8 8. Plaintiff worked for Defendant as an hourly, non-exempt manager between January
9 2018 and his termination in June 2020. As a non-exempt employee, Plaintiff was subject to
10 Defendant's written policies and procedures and general employment practices.

11 9. Generally, Plaintiff claims that Defendant failed to pay her for all hours worked,
12 including for overtime, failed to provide complaint meal and rest periods, failed to reimburse
13 mandatory business expenses, failed to provide accurate itemized wage statements, and failed to
14 pay all wages due at the time of her separation. Defendant denies liability for each of Plaintiff's
15 claims. Further, Defendant asserts that it fully complied with all applicable employment laws.
16 Defendant asserts that it had clear compliant policies and procedures such as for taking rest and
17 meal periods as outlined in its policies and additional technical assistance for accurate time keeping.
18 Defendant raised several other significant defenses to Plaintiff's claims, including but not limited
19 to, lack of any evidence of overtime and minimum wage violations, and the opportunity and
20 encouragement to take all meal and rest-breaks compliant with its policies and the law.
21 Additionally, Defendant maintains that any claims that Plaintiff required use of her personal cell
22 phone are unsupported by the facts.

23 10. On October 12, 2020, Plaintiff served Defendant and the Labor and Workforce
24 Development Agency ("LWDA") with a Notice of Violations ("PAGA Notice"). Plaintiff's PAGA
25 Notice set forth the facts and theories supporting Defendant's alleged violations of various
26 provisions of the California Labor Code and applicable Industrial Welfare Commissions ("IWC")
27 Wage Order and of his intent to pursue claims under California Labor Code Private Attorneys
28 General Act, Cal. Lab. Code Sections 2698 et seq ("PAGA").

1 11. On December 21, 2020, Plaintiff filed a class action complaint in the El Dorado
2 Superior Court for: (1) Unfair Competition in Violation of Bus. and Prof. Code §§ 17200; (2) failure
3 to pay minimum wages in violation of California Labor Code sections 1194, 1197 and 1197.1; (3)
4 failure to pay overtime wages in violation of California Labor Code sections 510 *et seq.*; (4) failure
5 to provide required meal periods in violation of California Labor Code sections 226.7 and 512; (5)
6 failure to provide required rest periods in violation of California Labor Code sections 226.7 and
7 512; (6) failure to reimburse employees for required business expenses in violation of California
8 Labor Code sections 2802; (7) failure to provide accurate itemized wage statements in violation of
9 California Labor Code section 226; (8) failure to provide wages when due in violation of California
10 Labor Code sections 201, 202 and 203; and (9) violations of the California Labor Code Private
11 Attorney General Act (“PAGA”).

12 12. After the Action was filed, the Parties met and conferred and agreed to mediate this
13 action as deemed in the best interest of the parties in particular in light of the many anticipated
14 factual disputes. In anticipation of mediation, the Parties engaged in formal and informal
15 discovery. To prepare for mediation, Defendant agreed to informally produce certain documents
16 and data points subject to the mediation privilege, including but not limited to, a sample of the
17 Class Members’ time and payroll data. As discussed *infra*, Plaintiff’s counsel retained the Berger
18 Consulting Group, to analyze Defendant’s time and payroll data. Defendant, on the other hand,
19 served Plaintiff with formal written discovery, to which Plaintiff responded in advance of the
20 mediation.

21 13. On March 10, 2021, the Parties participated in a full day mediation with (Ret.) Hon.
22 Carl West. After arms-length negotiations and bargaining, the parties reached an agreement to
23 settle and signed a Memorandum of Understanding. After reaching an agreement in principle, the
24 parties drafted and negotiated a long-form settlement agreement, which is the subject of the instant
25 motion.

26 **B. Class Counsel Thoroughly Investigated the Factual and Legal Issues**

27 14. Months before filing the Action, Class Counsel began its pre-filing investigation into
28 Plaintiff’s complaints. Class Counsel’s investigation started with several lengthy interviews with

1 Plaintiff. As part of the interview process, Plaintiff produced documents related to her employment
2 for Defendant, including portions of Defendant's handbooks, compensation policies and time and
3 payroll records. At the conclusion of the interviews, Class Counsel determined that Plaintiff's
4 complaints justified further inquiry.

5 15. Class Counsel reviewed and analyzed the documents further, and determined the
6 documents appeared to substantiate Plaintiff's claim that Defendant's failed to, among other things,
7 provide compliant meal and rest periods. Shortly thereafter, Class Counsel summarized the known
8 factual and legal issues in the PAGA Notice addressed to the LWDA. Approximately 65 days later,
9 Class Counsel filed this class action.

10 16. After filing the complaint, and in light of the many anticipated factual disputes, the
11 parties agreed it would be in the best interest of both parties to mediate the matter. To prepare for
12 mediation, Class Counsel requested several documents and data points to further evaluate
13 Plaintiff's claims and Defendant's liability exposure to the Settlement Class members. In response
14 to Class Counsel's request, Defendant produced the time and payroll records for the Settlement
15 Class members, aggregate workweek and pay period data for the Settlement Class, and copies of
16 applicable handbooks, policies, and agreements containing, *inter alia*, compensation, timekeeping
17 and, meal and rest period policies. In total, Defendant produced hundreds of pages containing
18 thousands of unique cells of time and payroll data for Class Counsel to analyze.

19 17. Class Counsel then retained the statisticians and economists at Berger Consulting
20 Group ("BCG"), to evaluate the Settlement Class Members' payroll and time data. BCG provides
21 data analysis and damage modeling consulting services specializing in wage and hour class
22 actions. BCG's team of financial and data analysts are credentialed and experienced experts in
23 their fields and have provided their expertise on thousands of cases. Stated differently, the BCG is
24 uniquely qualified to analyze Defendant's time and payroll data.

25 18. BCG analyzed Defendant's time and payroll data to assist in the development of
26 various damage models. Among other things, BCG determined the approximate number of work
27 shift, work weeks, pay periods, average rate of pay, average length of shift and average number of
28 hours worked per week and pay period during the Class Period. BCG also estimated the number

1 of missed or late meal and rest periods, the amount of paid missed meal period premiums paid
2 during the Class Period.

3 19. In advance of mediation, Class Counsel created a damage model predicated on BCG
4 analysis. Class Counsel's model calculated Defendant's potential liability exposure while
5 accounting for the uncertainties of continued litigation. This damage model informed and guided
6 Class Counsel during the mediated settlement discussions.

7 20. Overall, Class Counsel thoroughly investigated the claims at issue, including: (1)
8 determining Plaintiff's suitability as a putative class representative through interviews, background
9 investigations, and analysis of his employment files; (2) evaluating all of Plaintiff's potential
10 claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of
11 the positions, and the type of employer; (4) analyzing the Settlement Class' time and payroll
12 records; (5) analyzing Defendant's labor policies and practices; (6) researching settlements in
13 similar cases as well as outstanding issues which could affect settlement approval; (7) evaluating
14 Plaintiff's claims and estimating Defendant's liability for purposes of settlement; (8) drafting the
15 mediation brief and (9) participating in the mediation. This investigation allowed Class Counsel
16 to fully assess the nature and magnitude of the claims being settled, as well as the impediments to
17 recovery, such as to make an independent assessment of the reasonableness of the terms to which
18 the parties have agreed.

19 **C. The Parties Settled at Mediation**

20 21. On March 10, 2021, the Parties conducted a full day of mediation with (Ret.) Carl
21 West, a highly regarded mediator, and former Los Angeles County Superior Court Judge. Hon.
22 West helped to manage the Parties' expectations and provided a useful, neutral analysis of the
23 issues and risks to both sides. The Parties made substantial progress with Judge West's assistance.
24 Namely, the parties exchanged information regarding their respective claims and defense, including
25 their respective evaluation of the damages. After nearly eight hours arm's length and adversarial
26 negotiations, the mediation nearly concluded without a settlement. However, at the conclusion of
27 the mediation, Judge West issued a proposal for settlement that the Parties accepted. The complete
28

1 and final terms of the Parties' settlement are now set forth in the Agreement. Class Counsel submits
2 that the Settlement constitutes a fair, adequate, and reasonable compromise of the claims at issue.

3 22. At all times, the Parties' negotiations were at an arm's length, adversarial and non-
4 collusive. In fact, despite a full day of mediated negotiations, the Parties reached an impasse and
5 the mediation session nearly concluded without a settlement. The matter resolved only when Judge
6 West issued a mediator's proposal that the Parties accepted. Judge West only arrived at his proposal
7 after hearing arguments, reviewing evidence and evaluating the Parties' respective claims and
8 defenses.

9 23. Once the Parties agreed to the Mediator's proposal, the Parties engaged in protracted
10 negotiations regarding the written terms of the class action settlement. The Parties maintained the
11 arm's length, non-collusive and adversarial negotiations while arriving at the final terms of the
12 Settlement. The Agreement is the final product of these mediated negotiations. Objectively, the
13 Settlement terms are fair, adequate and represent a reasonable compromise of the claims at issue.

14 **IV. ARGUMENT**

15 **A. The Court Should Preliminarily Approve the Settlement**

16 24. The Total Settlement Amount of \$225,000 is fair and reasonable considering the
17 nature and magnitude of the claims being settled and the various factual and legal issues in disputes
18 and potential impediments to recovery. Prior to mediation, Class Counsel retained BCG to develop
19 varied economic damages models measuring Defendant's liability exposure while accounting for
20 the uncertainties of continued litigation. The various models were informed by Class Counsel's
21 investigation, including the analysis of time and payroll data. For the Class, Plaintiff estimated that
22 Defendant was subject to maximum liability for *damages* in the amount of \$666,867 consisting of
23 \$59,379 for unpaid wages, \$570,038 for meal and rest break periods, and \$37,450 for unreimbursed
24 expenses. In addition, Plaintiffs calculated that Defendants could be liable for \$45,050 for wage
25 statement penalties and \$600,576 waiting time penalties. Finally, Plaintiffs' expert calculated that
26 Defendants could be liable for PAGA penalties in an amount exceeding \$802,450. Thus, the Total
27 Settlement Amount of \$225,000 represents almost **33.7%** of the value of the maximum *damages*
28 at issue. Even when including the penalties for Plaintiff's claim for wage statement violations and

1 waiting time penalties under Labor Code Section 226 and 203, the settlement represents 17.1% of
2 the maximum potential liability, assuming all of these amounts could be proved at trial. Class
3 Counsel only agreed to enter the Settlement following his thorough investigation and evaluation of
4 Plaintiff's claims. Based on his investigation of the facts, applicable law, and marketplace for
5 similar settlements, and in light of the risk of significant delay, uncertainty associated with
6 litigation, and the various defenses asserted by Defendant, Class Counsel firmly believes this
7 Agreement to be in the best interests of Settlement Class. Because the Settlement's terms are fair,
8 reasonable, and adequate, the Court should preliminarily approve the Settlement.

9 (1) Estimated Damages for Meal Period Violations

10 25. Plaintiff alleges that Defendant required Plaintiff to work off the clock without
11 compensation. Specifically, Plaintiff alleges that Defendant required Plaintiff to perform work
12 before her shift started and after her shift ended while clocked out and without compensation.
13 Consequently, Plaintiff alleges that she is owed compensation for the off-the-clock work
14 performed.

15 26. Defendant has denied these claims. Defendant maintains that it paid Plaintiff for every
16 minute that they claimed they worked, and that it instructed Plaintiff to clock in as soon as she arrived
17 at the store and refrain from performing any work unless clocked-in. If successful, Defendant availed
18 itself to a complete defense of Plaintiff's unpaid wages claim. Plaintiff estimated the exposure for
19 this claim was approximately \$59,379.

20 (2) Estimated Damages for Meal Period Violations

21 27. Plaintiff alleges that Defendant failed to provide compliant meal periods.
22 Specifically, Plaintiff alleges that because of their rigorous work schedules, Plaintiff and the
23 Settlement Class Members regularly worked through what should have been off-the-clock and
24 duty-free meal periods without compensation. Consequently, Plaintiff alleges that she is owed
25 meal period premiums and compensation for the off-the-clock work performed during what should
26 have been her duty-free meal periods.

27 28. Defendant has denied these claims. Defendant maintains that it paid Plaintiff for every
28 minute that they claimed they worked. Defendant argued that it fully complied with California meal

1 period laws and maintained legally compliant policies and practices as outlined in its Handbook and
2 other policies. Courts have found that where an employer's meal period policies are compliant,
3 individualized issues exist as to the reasons for missed, late or truncated meal periods. *See e.g. Lampe*
4 *v. Queen of the Valley Medical Center*, 19 Cal.App.5th 832, 851 (2018) (holding that although only
5 11.1% of the employees' time punches for meal periods were within the first 5 hours, the claim was not
6 certifiable because individualized issues existed as to the reasons for the late meal periods). Defendant
7 argued that it not only provided meal and rest breaks but also installed technical enhancements that
8 reminded employees to timely take their meal-and rest breaks. If successful, Defendant availed
9 itself to a complete defense of Plaintiff's meal period claim. Plaintiff estimated the exposure for
10 this claim was approximately \$285,019.

11 (3) Estimated Damages for Rest Period Violations

12 29. Plaintiff also alleged that Defendant failed to provide compliant rest periods.
13 Specifically, Plaintiff alleged that as a result of their rigorous work schedule class members were not
14 able to take timely and duty-free rest periods. Again, Defendant denied liability and asserted that they
15 maintained legally compliant rest period policies and practices throughout the Class Period. Moreover,
16 Defendant argued that it not only provided all rest breaks but reminded Plaintiff and employees to take
17 them. Plaintiff recognizes the evidentiary burdens establishing this claim. Establishing Plaintiff's rest
18 period claim would rely, almost entirely, on Class Member testimony, making it a riskier claim at class
19 certification and liability stages. Defendant likely would have argued that only a small number of Class
20 Members missed their rest breaks. Certification likely would have required depositions of Class
21 Members who provided declarations, and Defendant surely would have obtained opposing declarations
22 stating either rest breaks were taken, or rest breaks were voluntarily waived. *See, e.g., Ordonez v. Radio*
23 *Shack, Inc.* (C.D. Cal. Jan. 17, 2013) 2013 WL 210223, at *11 ("Because of the competing testimony
24 before the Court, plaintiff's evidence that defendant may have an illegal, written rest break policy is
25 insufficient for this Court to find that common issues predominate."); *Villa v. United Site Servs. of*
26 *California, Inc.* (N.D. Cal. Nov. 13, 2012) 2012 WL 5503550, at *8 ("Indeed, Plaintiff's own evidence
27 confirms that the written policy does not generate uniform practices."). Accordingly, the rest break
28 claim was subject to significant defenses. If successful, Defendant availed itself to a complete

1 defense of Plaintiff's rest period claim. Plaintiff estimated the exposure for this claim was
2 approximately \$285,019.

3 (4) Defendant's Estimated Exposure for Unreimbursed Business Expenses

4 30. Plaintiff alleged that Defendant required the Settlement Class Members to use their
5 personal cell phone to obtain and view work schedules and remain in communication with
6 supervisors during their work shifts. Again, Defendant vigorously denied any liability for this
7 claim. Defendant maintains that employees were never required to use their personal cell phone
8 for work at the store, which offered telephone service for any employees work related use, if any.
9 Instead, Defendant argued that any cell phone use was completely voluntary and for their own
10 personal not work related use. Plaintiff estimated the exposure for this claim was approximately
11 \$37,450.

12 (5) Exposure for Wage Statement Violations and Waiting Time Penalties

13 31. Generally, Plaintiff alleges that Defendant's aforementioned violations resulted in
14 derivative violations of Labor Code sections 203 and 226(a). Class Counsel considered the arguable
15 presence of various penalties and weighed the potential recoveries against probable defenses.
16 Specifically, Defendant could argue that Plaintiff could not prove the "willful" prong needed to
17 obtain waiting time penalties under Cal. Lab. Code § 203. Additionally, Defendant could argue that
18 Plaintiff could not show that Class Members suffered an "injury" because of wage statement
19 violations, as required by Cal. Lab. Code § 226. Defendant could also argue that that meal and rest
20 period violations do not entitled employees like Plaintiff and the Settlement Class Members to
21 pursue the derivative waiting time and itemized wage statement penalties. (See *Naranjo v.*
22 *Spectrum Security Services, Inc.*, (2019) 40 Cal. App. 5th 444; *Maldonado v. Epsilon Plastics, Inc.*
23 (2018) 22 Cal. App. 5th 1308.) Although the Settlement Class arguably could have seen a payout
24 of more than \$645,000 for these penalties if Plaintiff prevailed on every penalty claim, Plaintiff
25 would not recover any derivative penalties if they failed to prove the underlying claims. Moreover,
26 Plaintiff would have to overcome damaging precedent to prove the Class deserved the penalties.
27 See, e.g., *Howard v. CVS Caremark Corp.*, 2014 U.S. Dist. LEXIS 172406 (C.D. Cal. Dec. 9, 2014)
28 (denying class certification for the same penalty claims); *Alonzo v. Maximus, Inc.*, 832 F. Supp. 2d

1 1122, 1134-1137 (C.D. Cal. 2011) (finding insufficient evidence of bad faith or actual injury).
2 Plaintiff could not give the penalty claims great weight given that they depended on proving the
3 underlying claims, which according to Defendant were not supported by the facts. Nevertheless,
4 Plaintiff estimated the potential exposure for these claim, if substantiated, was approximately
5 \$645,626.

6 (6) Defendant's PAGA Exposure

7 32. Class Counsel's damage models also estimated Defendant's exposure for PAGA
8 penalties arising from the aforementioned violations. At the time of mediation, Plaintiff estimated
9 Defendant's PAGA exposure at approximately \$802,450. Here, Plaintiff would need to prove that
10 each Aggrieved Employee suffered a violation for each pay period the employee worked. Again,
11 Defendant raised several defenses that presented serious threats to the claims of the Plaintiff and
12 the Aggrieved Employees. Defendant asserted that the employment practices complied with all
13 applicable Labor Laws. In addition to those arguments discussed *supra*, Defendant also argued
14 that the Court of Appeals decision in *Cacho v. Eurostar, Inc.* (2019) 43 Cal.App.5th 885, weakened
15 Plaintiff's claims, on liability, value, and manageability as to the rest period claims. In all,
16 Plaintiff's PAGA liability exposure is hotly contested.

17 **B. Risks of Continued Litigation**

18 33. Although Plaintiff is confident about the strength of his claims. Nonetheless,
19 Plaintiff recognizes that Defendant has factual and legal defenses that, if successful, would
20 potentially defeat or substantially impair the value of Plaintiff's lawsuit. Collectively, the examples
21 cited above illustrate the uncertain nature of class litigation. Consequently, the uncertainty of
22 obtaining certification through a contested motion is a significant risk factor favoring settlement.

23 34. Finally, continuing to litigate this action would require continued and extensive
24 resources coupled with significant Court time to proceed through trial and post-trial motions; which
25 can often take years. Furthermore, wage and hour litigation are complex and expensive, as it often
26 necessitates extensive expert testimony, particularly with regards to damages. But even if Plaintiff
27 is successful at trial, Plaintiff is acutely aware that a judgment does not end the litigation. Plaintiff
28 fully expects that Defendant would appeal any favorable judgment.

1 35. In this matter, Class Counsel negotiated a Total Settlement Amount of \$225,000 that
2 is roughly 33.7% of Defendant's maximum liability exposure for damages. Given the amount of
3 the settlement here, as compared to potential value of the claims, offset by the various inherent
4 risks to continued litigation, the settlement is fair and reasonable.

5 **C. Proposed Notice Informs the Class About the Case and Settlement**

6 36. The Parties jointly drafted the Class Notice which fairly and neutrally informs the
7 Settlement Class of their rights and remedies in this action. The Settlement Administrator will first
8 verify addresses, then mail the proposed Class Notice to entire Settlement Class. The Notice will
9 include information regarding the nature of the lawsuit, a summary of the substance of the
10 Settlement's terms, the class definition, the procedure and time period within which to requests for
11 exclusions or objections to the Settlement, the date for the final approval hearing, the formula used
12 to calculate settlement payments, and the terms and scope of the Released Claims. Agreement at
13 §III(L). This method was negotiated by the Parties to ensure delivering the most reasonable method
14 of notice to the Settlement Class while ensuring cost effective administration of the Settlement.

15 37. As detailed in the Agreement, the method of disseminating the proposed Class Notice
16 and contents of the Proposed Class Notice satisfy due process and the California Rule of Court
17 3.766.

18 **D. The Court Should Preliminarily Approve the Enhancement Award**

19 38. Approximately 167 members of the Settlement Class will share in the estimated
20 \$116,500 Net Settlement Amount due entirely to the effort and commitment of Plaintiff. Subject
21 to Court approval, therefore, the Settlement provides for a Class Representative Service Award of
22 \$10,000¹ for Plaintiff. The service award is fair and reasonable compensation for Plaintiff's efforts
23

24 ¹ The amount of the requested enhancement payment-\$10,000-is reasonable by reference to the amounts that California courts (both
25 federal and state) have repeatedly found to be reasonable for wage and hour class action settlements: *See Baker v. LA. Fitness Int'l,*
26 *LLC*, No. BC438654 (L.A. County Super. Ct. Dec. 12, 2012) (awarding \$10,000 enhancement payments to three of the named
27 plaintiffs); *Blue v. Codwell Banker Residential Brokerage Co.*, No. BC417335 (L.A. County Super. Ct. Mar. 21, 2011) (awarding
28 \$10,000 enhancement payment); *Buckmire v. Jo-Ann Stores, Inc.*, No. BC394795 (L.A. County Super. Ct. June 11, 2010) (awarding
\$10,000 enhancement payments to the named plaintiff); *Coleman v. Estes Express Lines, Inc.*, No. BC429042 (L.A. County Super.
Ct. Oct. 3, 2013) (awarding \$10,000 enhancement payment); *Ethridge v. Universal Health Services, Inc.*, No. BC391958 (L.A.
County Super. Ct. May 27, 2011) (awarding \$10,000 enhancement payment); *Hickson v. South Coast Auto Insurance Marketing,*
Inc., No. BC390395 (L.A. County Super. Ct. Mar. 27, 2012) (awarding \$10,000 enhancement payment); *Hill v. Sunglass Hut Int'l,*
(footnote continued)

1 bringing the action, assisting Class Counsel with the litigation and settlement, regularly conferring
2 with Class Counsel on the status of his case and the strategies for prosecuting the claims, reviewing
3 the proposed Settlement to ensure that its terms are fair and provide adequate relief for the
4 Settlement Class, and agreeing to provide Defendant a general release of all claims arising out of
5 his employment.

6 39. Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Class
7 Representative Service Award once preliminary approval of the Settlement is granted. Plaintiff
8 respectfully submits that the above showing is sufficient for preliminary approval of the negotiated
9 Class Representative Service Award.

10 **E. The Court Should Preliminary Approve the Negotiated Class Counsel Award**

11 40. Class Counsel took this matter on a contingency fee basis and invested significant
12 time and expense successfully prosecuting Plaintiff's claims. As discussed *supra*, the estimated
13 average Individual Settlement Share illustrates the demonstrably positive outcome for the
14 Settlement Class Members. The Agreement provides for a Class Counsel Award in the amount of
15

16 *Inc.*, No. BC422934 (L.A. County Super. Ct. July 2, 2012) (awarding \$10,000 enhancement payments to the named plaintiffs);
17 *Kabamba v. Victoria's Secret Stores, LLC*, No. BC368528 (L.A. County Super. Ct. Aug. 19, 2011) (awarding enhancement
18 payments of \$ 10,000 to the named plaintiffs along with additional compensation for their general release of claims); *Magee v.*
19 *American Residential Services, LLC*, No. BC423798 (L.A. County Super. Ct. Apr. 21, 2011) (awarding \$15,000 enhancement
20 payment); *Mares v. BFS Retail & Commercial Operations, LLC*, No. BC375967 (L.A. County Super. Ct. June 24, 2010) (awarding
21 \$15,000 enhancement payments to the named plaintiffs); *Nevarez v. Trader Joe's Co.*, No. BC373910 (L.A. County Super. Ct. Jan.
22 29, 2010) (awarding \$10,000 enhancement payment); *Ordaz v. Rose Hills Mortuary, LP.*, No. BC386500 (L.A. County Super. Ct.
23 Mar. 19, 2010) (awarding 10,000 enhancement payments to the named plaintiffs); *Sheldon v. AHMC Monterey Park Hospital LP*,
24 No. BC440282 (L.A. County Super. Ct. Feb. 22, 2013) (awarding \$10,000 enhancement payment); *Silva v. Catholic Moray Services,*
25 *Inc.*, No. BC408054 (L.A. County Super. Ct. Feb. 8, 2011) (awarding \$10,000 enhancement payments to the named plaintiffs);
26 *Weisbarth v. Banc West Investment Services, Inc.*, No. BC422202 (L.A. County Super. Ct. May 24, 2013) (awarding \$10,000
27 enhancement payment); *Zamora v. Balboa Life & Casualty LLC*, No. BC360026 (L.A. County Super. Ct. Mar. 7, 2013) (awarding
28 \$25,000 enhancement payments to the named plaintiffs); *Acheson v. Express, LLC*, No. 109CV135335 (Santa Clara County Super.
Ct. Sep. 13, 2011) (awarding \$10,000 enhancement payment); *Aguilar v. Cingular Wireless, LLC*, No. CV 06-8197 DDP (AJWx)
(C.D. Cal. Mar. 17, 2011) (awarding \$14,767 enhancement payment); *Bejarano v. Amerisave Mortgage Corp.*, No. EDCV 08-
00599 SGL (Opx) (C.D. Cal. June 22, 2010) (awarding \$10,000 enhancement payment); *Carbajal v. Sally Beauty Supply LLC*, No.
CIVVS 1004307 (San Bernardino Super. Ct. Aug. 6, 2012) (awarding \$10,000 enhancement payments to the named Plaintiffs);
Contreras v. Serco Inc., No. 10-cv-04526-CAS-JEMx (CD. Cal. Sep. 10, 2012) (awarding \$10,000 enhancement payment);
Guerrero v. R.R. Donnelley & Sons Co., No. RIC 10005196 (Riverside Super. Ct. July 16, 2013) (awarding \$10,000 enhancement
payment); *Kisliuk v. ADT Security Services, Inc.*, No. CV08-0324 DSF (RZx) (C.D. Cal. Jan. 10, 2011) (awarding \$10,000
enhancement payment); *Morales v. BCBG Maxaria Int'l Holdings, Inc.*, No. JCCP 4582 (Orange County Super. Ct. Jan. 24, 2013)
(awarding \$10,000 enhancement payment); and *Barrett v. Doyon Security Services, LLC*, Nos. BS900199, BS900517 (San
Bernardino County Super. Ct. Apr. 23, 2010) (awarding \$10,000 enhancement payment).

1 one-third of the Total Settlement Amount and litigation costs and expenses not to exceed \$15,000.
2 Agreement at §III(M)(10). In light of the positive outcome for the Settlement Class, and in light
3 of the supporting authority, the proposed Class Counsel award is fair and reasonable.

4 41. Plaintiff will file a formal motion for the negotiated Class Counsel Award once
5 preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above
6 showing is sufficient for preliminary approval of the negotiated attorneys' fees.

7 **F. The Court Should Provisionally Certify the Settlement Class**

8 42. For the purpose of Settlement, Plaintiff contends, and Defendant does not dispute,
9 that provisional certification of the Settlement Class is appropriate.

10 43. Generally, the proposed Settlement Class consists of all of Defendant's current and
11 former California employees during the Class Period. Defendant's records show that the
12 Settlement Class Members consists of approximately 167 individuals, making joinder of all
13 Settlement Class Members impracticable. Further, because all Settlement Class Members are
14 Defendant's current and former employees, the class is readily ascertainable from Defendant's
15 regular business records, i.e., payroll records.

16 44. The California statutes relating to each of Plaintiff's claims apply with equal force
17 and effect to the entire Settlement Class. Factually, Defendant's policies and practices apply class-
18 wide and Defendant's liability can be determined by facts common to all members of the class.
19 While Defendant disputes whether the class would be appropriate if the litigation were to continue,
20 it agrees to class certification for purposes of this settlement only. The wage and hour issues are
21 both numerous and substantial, and a class action is the most advantageous method of dealing with
22 the claims of the Settlement Class.

23 45. Plaintiff's wage and hour claims are typical of the proposed Settlement Class because
24 they arise from the same factual basis and are based on the same legal theories applicable to the
25 other Class Members. Likewise, Plaintiff's interests are entirely coextensive with the interests of
26 the Settlement Class. Plaintiff alleges that they were injured by the same company-wide practices
27 to which the proposed Settlement Class was subject and seeks the same relief. Plaintiff has already
28 demonstrated his ability to advocate for the interests of the Settlement Class by initiating this

1 litigation, undertaking class discovery, and evaluating the proposed settlement to assure that it is
2 fair. Again, the Defendant disputes whether Plaintiff's claims are typical of the Class for purposes
3 of any continued litigation of the Action, but agrees for the purposes of this settlement only that
4 Plaintiffs assert claims that are typical of the Settlement Class, including claims for meal and rest
5 break practices and reimbursement.

6 46. A class action is superior to a multitude of individual lawsuits. Given the size and
7 amount of each individual Settlement Class Member's claim, Class Settlement Members likely
8 have little incentive to litigate their claims on an individual basis because the out-of-pocket expense
9 and personal commitment necessary to litigate each claim outweighs any potential recovery. In
10 sum, class treatment is superior to individual, case-by-case adjudication.

11 **F. Class Counsel's Experience**

12 47. Plaintiff, the Settlement Class Members and the Aggrieved Employees are
13 represented by competent and experienced counsel to pursue their claims. My firm has worked on
14 this matter over the course of the litigation during the last year. My credentials are reflected in the
15 Zakay Law Group, APC firm resume, a true and correct copy of which is attached hereto as **Exhibit**
16 **#3**. Some of the major cases my firm has undertaken is also set forth in **Exhibit #3**. I have had
17 class litigation experience, mostly in the area of employment class actions, unfair business practices
18 and other complex litigation. I have experience in cases involving labor code violations and wage
19 and hour claims. I have litigated similar wage and hour cases against other employers on behalf of
20 employees. I have been approved as experienced class counsel in courts throughout California. It
21 is this level of experience which enabled my firm to undertake the instant matter and to successfully
22 combat the resources of the defendant and its capable and experienced counsel

23 I declare under the penalty of perjury under the laws of the State of California that the foregoing is
24 true and correct. Executed this 10th day of September 2021, at San Diego, California.

25 **ZAKAY LAW GROUP, APC**

26 By: _____

27 Shani O. Zakay
28 Attorney for Plaintiff

EXHIBIT 1

JEAN-CLAUDE LAPUYADE, ESQ. (SBN 248676)
JCL LAW FIRM, APC
3990 OLD TOWN AVENUE, SUITE C204
SAN DIEGO, CA 92110
TEL: 619-599-8292
FAX: 619-599-8291

ZAKAY LAW GROUP, APLC
SHANI O. ZAKAY (STATE BAR #277924)
3990 OLD TOWN AVENUE, SUITE C204
SAN DIEGO, CA 92110
TEL: (619) 255-9047
FAX: (858) 404-9203

SUPERIOR COURT OF CALIFORNIA
COUNTY OF EL DORADO

JESSICA BARACKMAN, an individual, on
behalf of herself and on behalf of all persons
similarly situated,

PLAINTIFF,

vs.

TEAZ N PLEAZ, INC., a California
corporation d.b.a. SEDUCTIONS; and
DOES 1 through 50, Inclusive;
DEFENDANTS.

Case No. SC 20200179

[Action Filed 12/21/2021]

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

Judge: Honorable Michael J. McLaughlin
Dept.: 12

STIPULATION OF SETTLEMENT OF CLASS ACTION AND RELEASE OF CLAIMS

1 This Stipulation of Class Action Settlement and Release of Claims is entered into by and
2 between Plaintiff JESSICA BARACKMAN (hereinafter "Plaintiff"), individually and on behalf of
3 the Putative Class, and Defendant E.B.S. ENTERPRISES, INC., a Texas Corporation d.b.a. TEAZ
4 N PLEAZ , (hereinafter "Defendant"):

5 **I. DEFINITIONS**

- 6 A. "Action" shall mean the putative class action lawsuit designated *Barackman v. Teaz*
7 *N Pleaz, Inc.*, El Dorado County Superior Court, Case No. SC 20200179, filed
8 December 21, 2020 (hereinafter "the Action")
9
- 10 B. "Aggrieved Employees" shall mean all non-exempt employees who are or previously
11 were employed by Defendant in California during the PAGA Period.
12
- 13 C. "Agreement" or "Settlement Agreement" means this Stipulation of Settlement of
14 Class Action and Release of Claims.
15
- 16 D. "Class Counsel" shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC and
17 Shani Zakay of Zakay Law Group, APLC.
18
- 19 E. "Class Counsel Award" means the award of fees and expenses that the Court
20 authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff
21 and the Class in the Actions, consisting of attorneys' fees currently not to exceed
22 one-third of the Total Settlement Amount currently estimated to be \$75,000 out of
23 \$225,000 plus costs and expenses \$15,000. Class Counsel's award for attorneys'
24 fees will be divided equally between Class Counsel (50% to JCL Law Firm, APC
25 and 50% to Zakay Law Group, APLC).
26
27
28

- 1 F. "Class Data" means information regarding Class Members that Defendant will in
2 good faith compile from its records and provide to the Settlement Administrator. It
3 shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class
4 Member's full name; last known address; Social Security Number; start dates and end
5 dates of employment.
6
- 7 G. "Class Members" or the "Class" means all non-exempt employees who are or
8 previously were employed by Defendant in California during the Class Period.
9
- 10 H. "Class Period" means the period between October 12, 2016 until May 10, 2021.
11
- 12 I. "Class Representative Service Award" means the amount that the Court authorizes to
13 be paid to the Class Representative, in addition to her Individual Settlement Payment
14 and her pro-rata share of the PAGA Settlement, in recognition of her efforts and risks
15 in assisting with the prosecution of the Actions and in exchange for executing a
16 General Release of Defendant.
17
- 18 J. "Class Representative" shall mean plaintiff JESSICA BARACKMAN.
19
- 20 K. "Court" means the Superior Court for the State of California, County of El Dorado
21 currently presiding over the Action.
22
- 23 L. "Defendant" shall mean E.B.S. ENTERPRISES, INC., a Texas Corporation d.b.a.
24 TEAZ N PLEAZ.
25
- 26 M. "Effective Date" means the earliest date, following entry by the Court of an order
27 and judgment finally approving this Settlement, upon which one of the following have
28 occurred: (i) if no objection is filed to the settlement and no objector appears at the

1 hearing on final approval, the date of the Court's entry of the order granting final
2 approval, (ii) if an objection is filed to the settlement and/or an objector appears at the
3 hearing on final approval, then the earlier of the following: (a) the expiration of all
4 potential appeal periods without a filing of a notice of appeal of the final approval
5 order or judgment; (b) final affirmance of the final approval order and judgment by
6 an appellate court as a result of any appeal(s), or (c) final dismissal or denial of all
7 such appeals (including any petition for review, rehearing, certiorari, etc.) such that
8 the final approval order and judgment is no longer subject to further judicial review.
9

10
11 N. "Funding Date" shall mean sixty-five (65) calendar days after the Effective Date and
12 is the date Defendant transfers the Total Settlement Amount into the QSF in accord
13 with the terms of this Agreement.

14
15 O. "Individual Settlement Payment" means the amount payable from the Net Settlement
16 Amount to each Settlement Class Member and excludes any amounts distributed to
17 Aggrieved Employees pursuant to PAGA.

18
19 P. "Net Settlement Amount" or "NSA" means the Total Settlement Amount, less Class
20 Counsel Award, Class Representative Service Award, PAGA Settlement, and
21 Settlement Administration Costs.

22
23 Q. "Notice Packet" means the Class Notice to be provided to the Class Members by the
24 Settlement Administrator in the form set forth as Exhibit A to this Agreement (other
25 than formatting changes to facilitate printing by the Settlement Administrator).

26 R. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
27 Labor Code § 2698 *et seq.*
28

- 1 S. "PAGA Payment Ratio" means the respective Workweeks during the PAGA Period
2 for each Aggrieved Employee divided by the sum total of the Workweeks for all
3 Aggrieved Employees during the PAGA Period.
4
- 5 T. "PAGA Period" means the period between October 12, 2019 until May 10, 2021 (the
6 "PAGA Period").
7
- 8 U. "PAGA Settlement" shall mean Ten Thousand Dollars (\$10,000) to be allocated from
9 the Total Settlement Amount.
10
- 11 V. "Parties" means Plaintiff and Defendant, collectively, and "Party" shall mean either
12 Plaintiff or Defendant, individually.
13
- 14 W. "Payment Ratio" means the respective Workweeks for each Class Member divided
15 by the sum total Workweeks for all Class Members.
16
- 17 X. "Plaintiff" shall mean JESSICA BARACKMAN.
18
- 19 Y. "QSF" means the Qualified Settlement Fund established, designated and maintained
20 by the Settlement Administrator to fund the Total Settlement Amount.
21
- 22 Z. "Released Class Claims" means all class claims alleged in the operative complaint
23 which occurred during the Class Period, and expressly excluding all other claims,
24 including claims for vested benefits, wrongful termination, unemployment insurance,
25 disability, social security, workers' compensation, and class claims outside of the
26 Class Period.
- 27 AA. "Released PAGA Claims" means all PAGA claims alleged in the operative complaint
28

1 and Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period,
2 and expressly excluding all other claims, including claims vested benefits, unpaid
3 wages, wrongful termination, unemployment insurance, disability, social security,
4 workers' compensation, and PAGA claims outside the PAGA Period.
5

6 BB. "Released Parties" shall mean Defendant and EBS Enterprises, Inc. d.b.a. Teaz N
7 Pleaz.
8

9 CC. "Response Deadline" means the date forty-five (45) days after the Settlement
10 Administrator mails Notice Packets to Class Members and the last date on which
11 Class Members may submit requests for exclusion or objections to the Settlement.
12

13 DD. "Settlement" means the disposition of the Actions pursuant to this Agreement.
14

15 EE. "Settlement Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L,
16 Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. The Settlement
17 Administrator establishes, designates and maintains, as a QSF under Internal Revenue
18 Code section 468B and Treasury Regulation section 1.468B-1, into which the amount
19 of the Total Settlement Amount is deposited for the purpose of resolving the claims
20 of Settlement Class Members. The Settlement Administrator shall maintain the funds
21 until distribution in an account(s) segregated from the assets of Defendant and any
22 person related to Defendant. *All accrued interest shall be paid and distributed to the*
23 *Settlement Class Members as part of their respective Individual Settlement*
24 *Payment.*
25
26
27
28

1 FF. "Settlement Class Members" or "Settlement Class" means all Class Members who
2 have not submitted a timely and valid request for exclusion as provided in this
3 Agreement.

4
5 GG. "Total Settlement Amount" means Two Hundred Twenty-Five Thousand Dollars
6 (\$225,000.00) that Defendant must pay into the QSF in connection with this
7 Settlement, inclusive of the sum of the Individual Settlement Payments, the Class
8 Representative Service Award, the Class Counsel Award, PAGA Settlement and the
9 Settlement Administration Costs and *exclusive* of the employer's share of payroll tax,
10 if any, triggered by any payment under this Settlement.
11

12 HH. "Workweeks", for purposes of calculating the distribution of the Net Settlement
13 Amount, means the number of weeks of employment during the Class Period that
14 each Class Member was employed by Defendant in California, excluding weeks
15 during which the Class Member did not perform any work for Defendant. For purpose
16 of determining the Individual Settlement Payments and the Settlement Allocation,
17 each Class Member who is a former employee no longer working for Defendant will
18 be assigned four (4) additional Workweeks.
19

20
21 II. "PAGA Workweeks", for purposes of calculating the distribution of the Aggrieved
22 Employee Payment, as defined herein, means the number of weeks of employment
23 during the PAGA Period that each Aggrieved Employee worked in California.
24

25 **II. RECITALS**

26 A. On October 12, 2020, Plaintiff filed a Notice of Violations with the Labor and
27 Workforce Development Agency (LWDA) and served the same on Defendant.
28

1 B. On December 21, 2020, Plaintiff filed the Class Action lawsuit for:

2
3 1. Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq*;

4 2. Failure to pay overtime wages in violation of California Labor Code sections
5 510 *et seq*;

6
7 3. Failure to pay minimum wages in violation of California Labor Code sections
8 1194, 1197 and 1197.1;

9
10 4. Failure to provide required meal periods in violation of California Labor Code
11 sections 226.7 and 512 and the applicable IWC wage order;

12
13 5. Failure to provide required rest periods in violation of California Labor Code
14 sections 226.7 and 512 and the applicable IWC wage order;

15 6. Failure to reimburse Plaintiff for required expenses in violation of California
16 Labor Code section 2802;

17
18 7. Failure to provide accurate itemized wage statements in violation of California
19 Labor Code section 226;

20
21 8. Failure to provide wages when due in violation of California Labor Code
22 sections 201, 202 and 203.

23
24 9. Violation of the Private Attorneys General Act [Labor Code section 2698].

25 C. The Class Representative believes she has meritorious claims based on alleged
26 violations of the California Labor Code, and the Industrial Wage Commission
27

1 Orders, and that class certification is appropriate because the prerequisites for class
2 certification can be satisfied in the Action, and this action is manageable as a PAGA
3 representative action.
4

5 D. Defendant denies any liability or wrongdoing of any kind associated with the claims
6 alleged in the Action, disputes any wages, damages and penalties claimed by the
7 Class Representative are owed, and further contends that, for any purpose other than
8 settlement, the Action is not appropriate for class or representative action treatment.
9 Defendant contends, among other things, that at all times they complied with the
10 California Labor Code and the Industrial Wage Commission Orders.
11

12 E. The Class Representative is represented by Class Counsel. Class Counsel conducted
13 an investigation into the facts relevant to the Action, including conducting an
14 independent investigation as to the allegations, reviewing documents and
15 information exchanged through informal discovery, and reviewing documents and
16 information provided by Defendant pursuant to informal requests for information to
17 prepare for mediation. Defendant produced for the purpose of settlement
18 negotiations certain employment data concerning the Settlement Class, which Class
19 Counsel reviewed and analyzed. Based on their own independent investigation and
20 evaluation, Class Counsel are of the opinion that the Settlement with Defendant is
21 fair, reasonable and adequate, and is in the best interest of the Settlement Class in
22 light of all known facts and circumstances, including the risks of significant delay,
23 defenses asserted by Defendant, uncertainties regarding class certification, and
24 numerous potential appellate issues. Although it denies any liability, Defendant is
25 agreeing to this Settlement solely to avoid the inconveniences and cost of further
26
27
28

1 litigation. The Parties and their counsel have agreed to settle the claims on the terms
2 set forth in this Agreement.

3
4 F. On May 10, 2021, the Parties participated in mediation presided over by Hon. Carl
5 J. West (Ret.) a respected jurist and mediator of wage and hour class actions. The
6 mediation concluded with a settlement after both sides agreed to a Mediator's
7 proposal which was subsequently memorialized in the form of a Memorandum of
8 Understanding ("MOU").

9
10 G. This Agreement replaces and supersedes the MOU and any other agreements,
11 understandings, or representations between the Parties. This Agreement represents
12 a compromise and settlement of highly disputed claims. Nothing in this Agreement
13 is intended or will be construed as an admission by Defendant that the claims in the
14 Actions of Plaintiff or the Class Members have merit or that Defendant bears any
15 liability to Plaintiff or the Class on those claims or any other claims, or as an
16 admission by Plaintiff that Defendant's defenses in the Actions have merit.

17
18 H. The Parties believe that the Settlement is fair, reasonable and adequate. The
19 Settlement was arrived at through arm's-length negotiations, taking into account all
20 relevant factors. The Parties recognize the uncertainty, risk, expense and delay
21 attendant to continuing the Action through trial and any appeal. Accordingly, the
22 Parties desire to fully, finally, and forever settle, compromise and discharge all
23 disputes and claims arising from or relating to the Action.

24
25
26 I. The Parties agree to certification of the Class for purposes of this Settlement only.
27 If for any reason the settlement does not become effective, Defendant reserves the
28

right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

III. TERMS OF AGREEMENT

A. Settlement Consideration and Settlement Payments by Defendant.

1. Settlement Consideration. In full and complete settlement of the Actions, and in exchange for the releases set forth below, Defendant and the Released Parties will pay the sum of the Individual Settlement Payment, the Class Representative Service Award, the Class Counsel Award, PAGA Settlement, and the Settlement Administration Costs, as specified in this Agreement, equal to the Total Settlement Amount of Two Hundred Twenty-Five Thousand Dollars (\$225,000.00). The Parties agree that this is a non-reversionary Settlement and that no portion of the Total Settlement Amount shall revert to Defendant. Other than the Defendant's share of employer payroll taxes, or as otherwise specified in the Agreement, Defendant shall not be required to pay more than the Total Settlement Amount, except as provided for hereinbelow.

2. Class Size. At the time of mediation, Defendant estimated that the Settlement Class was comprised of 167 individuals who collectively worked approximately 3,100 Workweeks ("Projected Workweeks") during the Class Period. In regard hereto, Defendant will provide a declaration under penalty of perjury confirming the number of Class Members and Workweeks they worked during the Class Period prior to the filing of the motion for preliminary

1 approval. The Settlement Amount will increase proportionally with added
2 class members or workweeks if any of these are more than 10% of the estimate
3 set forth herein.
4

5 3. Settlement Payment. Defendant and the Released Parties, and each of them,
6 are jointly and severally liable for payment of the Total Settlement Amount.
7 Defendant shall pay, via wire transfer, the Total Settlement Amount to the
8 Settlement Administrator on the Funding Date.
9

10 4. Defendant's Share of Payroll Taxes. Defendant's share of employer side
11 payroll taxes is in addition to the Total Settlement Amount and shall be paid
12 together with the Total Settlement Amount.
13

14 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
15 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members
16 release the Released Parties from the Released Class Claims for the Class Period.
17

18 C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
19 consideration set forth in this Agreement, the Plaintiff, the LWDA and the State of
20 California release the Released Parties from the PAGA Released Claims for the PAGA
21 Period.
22

23 D. General Release by Plaintiff. As of the Funding Date, for the consideration set forth
24 in this Agreement, Plaintiff waives, releases, acquits and forever discharges the
25 Released Parties from any and all claims, whether known or unknown, which exist or
26 may exist on her behalf as of the date of this Agreement, including but not limited to
27 any and all tort claims, contract claims, wage claims, wrongful termination claims,
28

1 disability claims, benefit claims, public policy claims, retaliation claims, statutory
2 claims, personal injury claims, emotional distress claims, invasion of privacy claims,
3 defamation claims, fraud claims, quantum meruit claims, and any and all claims
4 arising under any federal, state or other governmental statute, law, regulation or
5 ordinance, including, but not limited to claims for violation of the Fair Labor
6 Standards Act, the California Labor Code, the Wage Orders of California's Industrial
7 Welfare Commission, other state wage and hour laws, the Americans with
8 Disabilities Act, the Age Discrimination in Employment Act (ADEA), the Employee
9 Retirement Income Security Act, Title VII of the Civil Rights Act of 1964, the
10 California Fair Employment and Housing Act, the California Family Rights Act, the
11 Family Medical Leave Act, California's Whistleblower Protection Act, California
12 Business & Professions Code Section 17200 et seq., and any and all claims arising
13 under any federal, state or other governmental statute, law, regulation or ordinance.
14 Plaintiff also waives and relinquishes any and all claims, rights or benefits that she
15 may have under California Civil Code § 1542, which provides as follows:

16
17
18
19 ***A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE***
20 ***CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO***
21 ***EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE***
22 ***RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE***
23 ***MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE***
24 ***DEBTOR OR RELEASED PARTY.***

25
26 Thus, notwithstanding the provisions of section 1542, and to implement a full and
27 complete release and discharge of the Released Parties, Plaintiff expressly
28

acknowledges this Settlement Agreement is intended to include in its effect, without limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of signing this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such claims. Plaintiff warrants that Plaintiff has read this Settlement Agreement, including this waiver of California Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to consult with counsel of Plaintiff's choosing about this Settlement Agreement and specifically about the waiver of section 1542, and that Plaintiff understands this Settlement Agreement and the section 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement Agreement. Plaintiff further acknowledges that Plaintiff later may discover facts different from or in addition to those Plaintiff now knows or believes to be true regarding the matters released or described in this Settlement Agreement, and even so Plaintiff agrees that the releases and agreements contained in this Settlement Agreement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection with the true facts involved in the matters, disputes, or controversies released or described in this Settlement Agreement or with regard to any facts now unknown to Plaintiff relating thereto.

E. Conditions Precedent: This Settlement will become final and effective only upon the occurrence of all of the following events:

1. The Court enters an order granting preliminary approval of the Settlement;

- F. Nullification of Settlement Agreement. In the event that this Settlement Agreement is not preliminarily or finally approved by the Court, fails to become effective, or is reversed, withdrawn or modified by the Court, or in any way prevents or prohibits Defendant from obtaining a complete resolution of the Released Claims, or if Defendant fails to fully fund the Total Settlement Amount:

- 14

1 3. None of the Parties to this Settlement will be deemed to have waived any
2 claims, objections, defenses or arguments in the Actions, including with
3 respect to the issue of class certification.
4

5 4. If Defendant fails to fully fund the Total Settlement Amount, Defendant shall
6 bear the sole responsibility for any cost to issue or reissue any curative notice
7 to the Settlement Class Members and all Settlement Administration Costs
8 incurred to the date of nullification.
9

10 G. Certification of the Settlement Class. The Parties stipulate to conditional class
11 certification of the Class for the Class Period for purposes of settlement only. In the
12 event that this Settlement is not approved by the Court, fails to become effective, or is
13 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
14 Defendant from obtaining a complete resolution of the Released Claims, the
15 conditional class certification (obtained for any purpose) shall be void *ab initio* and of
16 no force or effect, and shall not be admissible in any judicial, administrative or arbitral
17 proceeding for any purpose or with respect to any issue, substantive or procedural.
18
19

20 H. Tax Liability. The Parties make no representations as to the tax treatment or legal
21 effect of the payments called for, and Class Members and/or Aggrieved Employees are
22 not relying on any statement or representation by the Parties in this regard. Class
23 Members and/or Aggrieved Employees understand and agree that they will be
24 responsible for the payment of any taxes and penalties assessed on the Individual
25 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
26 Settlement described and will be solely responsible for any penalties or other
27
28

obligations resulting from their personal tax reporting of Individual Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA Settlement.

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

J. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file with the Court a Motion for Order Granting Preliminary Approval and supporting papers, which shall include this Settlement Agreement. Plaintiff will provide Defendant with

1 a draft of the Motion at least 3 business days prior to the filing of the Motion to give
2 Defendant an opportunity to propose changes or additions to the Motion.

3
4 K. Settlement Administrator. The Settlement Administrator shall be responsible for:
5 establishing and administering the QSF; calculating, processing and mailing payments
6 to the Class Representative, Class Counsel, LWDA and Class Members; printing and
7 mailing the Notice Packets to the Class Members as directed by the Court; receiving
8 and reporting the objections and requests for exclusion; calculating, deducting and
9 remitting all legally required taxes from Individual Settlement Payments and
10 distributing tax forms for the Wage Portion and Non-Wage Portion of the Individual
11 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
12 Settlement; processing and mailing tax payments to the appropriate state and federal
13 taxing authorities; providing declaration(s) as necessary in support of preliminary
14 and/or final approval of this Settlement; and other tasks as the Parties mutually agree
15 or the Court orders the Settlement Administrator to perform. The Settlement
16 Administrator shall keep the Parties timely apprised of the performance of all
17 Settlement Administrator responsibilities by among other things, sending a weekly
18 status report to the Parties' counsel stating the date of the mailing, the of number of
19 Elections Not to Participate in Settlement it receives (including the numbers of valid
20 and deficient), and number of objections received.

21
22
23
24 L. Notice Procedure.

25 1. Class Data. No later than ten (10) business days after the Preliminary
26 Approval Date, Defendant shall provide the Settlement Administrator with the
27
28

1 Class Data for purposes of preparing and mailing Notice Packets to the Class
2 Members.

3
4 2. Notice Packets.

- 5 a) The Notice Packet shall contain the Notice of Class Action Settlement
6 in a form substantially similar to the form attached as Exhibit A. The
7 Notice of Class Action Settlement shall inform Class Members and
8 Aggrieved Employees that they need not do anything in order to
9 receive an Individual Settlement Payment and/or Aggrieved
10 Employees' individual shares of the PAGA Settlement and to keep the
11 Settlement Administrator apprised of their current mailing address, to
12 which the Individual Settlement Payments and/or Aggrieved
13 Employees' individual shares of the PAGA Settlement will be mailed
14 following the Funding Date. The Notice of Class Action Settlement
15 shall set forth the release to be given by all members of the Class who
16 do not request to be excluded from the Settlement Class and/or
17 Aggrieved Employees' in exchange for an Individual Settlement
18 Payment and/or Aggrieved Employees' individual shares of the PAGA
19 Settlement, the number of Workweeks worked by each Class Member
20 during the Class Period and PAGA Period, if any, and the estimated
21 amount of their Individual Settlement Payment if they do not request
22 to be excluded from the Settlement and each Aggrieved Employee's
23 share of the PAGA Settlement, if any. The Settlement Administrator
24 shall use the Class Data to determine Class Members' Workweeks and
25
26
27
28

1 PAGA Workweeks. The Notice will also advise the Aggrieved
2 Employees that they will release the Released PAGA Claims and will
3 receive their share of the PAGA Settlement regardless of whether they
4 request to be excluded from the Settlement.
5

6 b) The Notice Packet's mailing envelope shall include the following
7 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
8 ENTITLED TO PARTICIPATE IN A CLASS ACTION
9 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
10 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
11 NOTICE."
12

13
14 3. Notice by First Class U.S. Mail and Email. Upon receipt of the Class Data,
15 the Settlement Administrator will perform a search based on the National
16 Change of Address Database to update and correct any known or identifiable
17 address changes. No later than fourteen (14) calendar days after receiving the
18 Class Data from Defendant, the Settlement Administrator shall mail and email
19 copies of the Notice Packet to all Class Members via regular First-Class U.S.
20 Mail and electronic mail. The Settlement Administrator shall exercise its best
21 judgment to determine the current mailing address for each Class Member.
22 The address identified by the Settlement Administrator as the current mailing
23 address shall be presumed to be the best mailing address for each Class
24 Member.
25
26
27
28

1 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
2 Administrator as non-delivered on or before the Response Deadline shall be
3 re-mailed to any forwarding address provided. If no forwarding address is
4 provided, the Settlement Administrator shall promptly attempt to determine a
5 correct address by lawful use of skip-tracing, or other search using the name,
6 address and/or Social Security number of the Class Member involved, and
7 shall then perform a re-mailing, if another mailing address is identified by the
8 Settlement Administrator. In addition, if any Notice Packets, which are
9 addressed to Class Members who are currently employed by Defendant, are
10 returned to the Settlement Administrator as non-delivered and no forwarding
11 address is provided, the Settlement Administrator shall notify Defendant.
12 Defendant will request that the currently employed Class Member provide a
13 corrected address, and transmit to the Administrator any corrected address
14 provided by the Class Member. Class Members who received a re-mailed
15 Notice Packet shall have their Response Deadline extended fifteen (15) days
16 from the original Response Deadline.

17
18
19
20 5. Disputes Regarding Individual Settlement Payments. Class Members will
21 have the opportunity, should they disagree with Defendant's records regarding
22 the start and end dates of employment to provide documentation and/or an
23 explanation to show contrary dates. If there is a dispute, the Settlement
24 Administrator will consult with the Parties to determine whether an
25 adjustment is warranted. The Settlement Administrator shall determine the
26 eligibility for, and the amounts of, any Individual Settlement Payments under
27
28

1 the terms of this Agreement. The Settlement Administrator's determination
2 of the eligibility for and amount of any Individual Settlement Payment shall
3 be binding upon the Class Member and the Parties.
4

5 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
6 by the Settlement Administrator concerning the administration of the
7 Settlement will be resolved by the Court under the laws of the State of
8 California. Before any such involvement of the Court, counsel for the Parties
9 will confer in good faith to resolve the disputes without the necessity of
10 involving the Court.
11

12 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
13 Packet shall state that Class Members who wish to exclude themselves from
14 the Settlement must submit a written request for exclusion by the Response
15 Deadline. The written request for exclusion must state that the Class Member
16 wishes to exclude himself or herself from the Settlement and (1) must contain
17 the name, address, and the last four digits of the Social Security number of the
18 person requesting exclusion; (2) must be signed by the Class Member; (3)
19 must be postmarked or fax stamped by the Response Deadline and returned to
20 the Settlement Administrator at the specified address or fax telephone number;
21 and (4) contain a typewritten or handwritten notice stating in substance: "I
22 wish to opt out of the settlement of the class action lawsuit entitled *Barackman*
23 *v. Teaz N Pleaz Inc.*, currently pending in the Superior Court for the County
24 of El Dorado, Case No. SC 2020179 . I understand that by requesting to be
25 excluded from the settlement, I will receive no money from the Settlement
26
27
28

1 described in this Notice.” The request for exclusion will not be valid if it is
2 not timely submitted, if it is not signed by the Class Member, or if it does not
3 contain the name and address and last four digits of the Social Security number
4 of the Class Member. The date of the postmark on the mailing envelope or
5 fax stamp on the request for exclusion shall be the exclusive means used to
6 determine whether the request for exclusion was timely submitted. Any Class
7 Member who requests to be excluded from the Settlement Class will not be
8 entitled to an Individual Settlement Payment and will not be otherwise bound
9 by the terms of the Settlement or have any right to object, appeal or comment
10 thereon. However, any Class Member that submits a timely request for
11 exclusion that is also a member of the Aggrieved Employees will still receive
12 his/her pro rata share of the PAGA Settlement, as specified below, and in
13 consideration, will be bound by the Release by the Aggrieved Employees as
14 set forth herein. Settlement Class Members who fail to submit a valid and
15 timely written request for exclusion on or before the Response Deadline shall
16 be bound by all terms of the Settlement and any final judgment entered in this
17 Action if the Settlement is approved by the Court. No later than fourteen (14)
18 calendar days after the Response Deadline, the Settlement Administrator shall
19 provide counsel for the Parties with a final list of the Class Members who have
20 timely submitted written requests for exclusion. At no time shall any of the
21 Parties or their counsel seek to solicit or otherwise encourage members of the
22 Class to submit requests for exclusion from the Settlement.
23
24
25
26
27
28

1 8. Objections. The Notice of Class Action Settlement contained in the Notice
2 Packet shall state that Class Members who wish to object to the Settlement
3 may submit to the Settlement Administrator a written statement of objection
4 ("Notice of Objection") by the Response Deadline. The postmark date of
5 mailing shall be deemed the exclusive means for determining that a Notice of
6 Objection was served timely. The Notice of Objection must be signed by the
7 Settlement Class Member and state: (1) the case name and number; (2) the
8 name of the Settlement Class Member; (3) the address of the Settlement Class
9 Member; (4) the last four digits of the Settlement Class Member's Social
10 Security number; (4) the basis for the objection; and (5) if the Settlement Class
11 Member intends to appear at the Final Approval/Settlement Fairness Hearing.
12 Class Members who fail to make objections in writing in the manner specified
13 above may still make their objections orally at the Final Approval/Settlement
14 Fairness Hearing with the Court's permission. Settlement Class Members will
15 have a right to appear at the Final Approval/Settlement Fairness Hearing to
16 have their objections heard by the Court. At no time shall any of the Parties
17 or their counsel seek to solicit or otherwise encourage Class Members to file
18 or serve written objections to the Settlement or appeal from the Order and
19 Final Judgment. Class Members who submit a written request for exclusion
20 may not object to the Settlement. Class Members may not object to the PAGA
21 Settlement
22
23
24
25
26
27
28

1 M. Funding and Allocation of the Total Settlement Amount. Defendant is required to pay
2 the Total Settlement Amount on or before the Funding Date, plus any employer's share
3 of payroll taxes as mandated by law within the time specified herein.
4

5 1. Individual Settlement Payments. Individual Settlement Payments shall be
6 paid from the Net Settlement Amount and shall be paid pursuant to the
7 formula set forth herein. Using the Class Data, the Settlement Administrator
8 shall add up the total number of Workweeks for all Class Members. The
9 respective Workweeks for each Class Member will be divided by the total
10 Workweeks for all Class Members, resulting in the Payment Ratio for each
11 Class Member. Each Class Member's Payment Ratio will then be multiplied
12 by the Net Settlement Amount to calculate each Class Member's estimated
13 Individual Settlement Payments. Each Individual Settlement Payment will be
14 reduced by any legally mandated employee tax withholdings (e.g., employee
15 payroll taxes, etc.). Individual Settlement Payments for Class Members who
16 submit valid and timely requests for exclusion will be redistributed to
17 Settlement Class Members who do not submit valid and timely requests for
18 exclusion on a pro rata basis based on their respective Payment Ratios.
19

20
21 2. Calculation of Individual Payments to the Aggrieved Employees. Using the
22 Class Data, the Settlement Administrator shall add up the total number of
23 PAGA Workweeks for all Aggrieved Employees during the PAGA Period.
24 The respective PAGA Workweeks for each Aggrieved Employee will be
25 divided by the total PAGA Workweeks for all Aggrieved Employees,
26 resulting in the "PAGA Payment Ratio" for each Aggrieved Employee. Each
27
28

1 Aggrieved Employee's PAGA Payment Ratio will then be multiplied by the
2 Aggrieved Employee Payment to calculate each Aggrieved Employee's
3 estimated share of the PAGA Settlement.
4

5 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
6 Settlement Payments shall be allocated and treated as follows: 10% as wages
7 ("Wage Portion"); 90% as penalties and interest ("Non-Wage Portion"). The
8 Wage Portion is subject to wage withholdings and shall be reported on IRS
9 Form W-2. The Non-Wage Portion shall not be subject to wage withholdings
10 and shall be reported on IRS Form 1099.
11

12 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
13 Employee Settlement Payments shall be allocated and treated as 100%
14 penalties and shall be reported on IRS Form 1099.
15

16 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
17 individual shares of the PAGA Settlement made to Settlement Class Members
18 and/or Aggrieved Employees under this Settlement Agreement, as well as any
19 other payments made pursuant to this Settlement Agreement, will not be
20 utilized to calculate any additional benefits under any benefit plans to which
21 any Class Members may be eligible, including, but not limited to profit-
22 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
23 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
24 Parties' intention that this Settlement Agreement will not affect any rights,
25
26
27
28

1 contributions, or amounts to which any Class Members may be entitled under
2 any benefit plans.

3
4 6. All monies received by Settlement Class Members under the Settlement which
5 are attributable to wages shall constitute income to such Settlement Class
6 Members solely in the year in which such monies actually are received by the
7 Settlement Class Members. It is the intent of the Parties that Individual
8 Settlement Payments and individual shares of the PAGA Settlement provided
9 for in this Settlement agreement are the sole payments to be made by Defendant
10 to Settlement Class Members and/or Aggrieved Employees in connection with
11 this Settlement Agreement, with the exception of Plaintiff, and that the
12 Settlement Class Members and/or Aggrieved Employees are not entitled to any
13 new or additional compensation or benefits as a result of having received the
14 Individual Settlement Payments and/or their shares of the PAGA Settlement.
15

16
17 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
18 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
19 and/or Aggrieved Employees last known mailing address no later than fifteen
20 (15) calendar days after the Funding Date.
21

22 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
23 Employees shall remain valid and negotiable for one hundred and eighty (180)
24 days from the date of their issuance. If a Settlement Class Member and/or
25 Aggrieved Employee does not cash his or her settlement check within 90 days,
26 the Settlement Administrator will send a letter to such persons, advising that
27
28

1 the check will expire after the 180th day, and invite that Settlement Class
2 Member and/or Aggrieved Employee to request reissuance in the event the
3 check was destroyed, lost or misplaced. In the event an Individual Settlement
4 Payment and/or Aggrieved Employee's individual share of the PAGA
5 Settlement check has not been cashed within one hundred and eighty (180)
6 days, all funds represented by such uncashed checks, plus any interest accrued
7 thereon, shall be distributed consistent with California Code of Civil
8 Procedure Section 384 as follows: to The Children's Advocacy Institute
9 (CAI), founded at the nonprofit University of San Diego School of Law in
10 1989. Class Counsel ,Defendant's counsel, nor any of the Parties, have any
11 interest, pecuniary or otherwise, in CAI.
12
13

14 9. Class Representative Service Award. In addition to the Individual Settlement
15 Payment and her individual share of the PAGA Settlement to be paid to
16 Plaintiff, Plaintiff will apply to the Court for an award of not more than
17 \$10,000, as the Class Representative Service Award. Defendant does not
18 presently intend to oppose a Class Representative Service Award of not more
19 than \$10,000 for Plaintiff. The Settlement Administrator shall pay the Class
20 Representative Service Award, either in the amount stated herein if approved
21 by the Court or some other amount as approved by the Court, to Plaintiff from
22 the Total Settlement Amount no later than ten (10) calendar days after the
23 Funding Date. Any portion of the requested Class Representative Service
24 Awards that are not awarded to the Class Representative shall be part of the
25 Net Settlement Amount and shall be distributed to Settlement Class Members
26
27
28

1 as provided in this Agreement. The Settlement Administrator shall issue an
2 IRS Form 1099 — MISC to Plaintiff for her Class Representative Service
3 Award. Plaintiff shall be solely and legally responsible to pay any and all
4 applicable taxes on her Class Representative Service Award and shall hold
5 harmless the Released Parties from any claim or liability for taxes, penalties,
6 or interest arising as a result of the Class Representative Service Awards. The
7 Class Representative Service Award shall be in addition to Plaintiff's
8 Individual Settlement Payment as a Settlement Class Member. Approval of
9 this Settlement shall not be conditioned on Court approval of the requested
10 amount of the Class Representative Service Award. In the event that the Court
11 reduces or does not approve the requested Class Representative Service
12 Award, Plaintiff shall not have the right to revoke the Settlement, and it will
13 remain binding.
14
15

- 16 10. Class Counsel Award. Defendant understands a motion by Class Counsel for
17 attorneys' fees not to exceed one-third of the Total Settlement Amount
18 currently estimated to be \$75,000.00 plus costs and expenses supported by
19 declaration not to exceed Fifteen Thousand Dollars (\$15,000), from the Total
20 Settlement Amount will be filed. Any portion of the requested Class Counsel
21 Award that is not awarded to Class Counsel shall be part of the Net Settlement
22 Amount and shall be distributed to Settlement Class Members as provided in
23 this Agreement. The Settlement Administrator shall allocate and pay the
24 Class Counsel Award to Class Counsel from the Total Settlement Amount no
25 later than five (5) calendar days after the Funding Date. Class Counsel shall
26
27
28

1 be solely and legally responsible to pay all applicable taxes on the payment
2 made pursuant to this paragraph. The Settlement Administrator shall issue an
3 IRS Form 1099 — MISC to Class Counsel for the payments made pursuant to
4 this paragraph. In the event that the Court reduces or does not approve the
5 requested Class Counsel Award, Plaintiff and Class Counsel shall not have
6 the right to revoke the Settlement, or to appeal such order, and the Settlement
7 will remain binding.
8

9
10 11. PAGA Settlement. Ten Thousand Dollars (\$10,000) shall be allocated from
11 the Total Settlement Amount for settlement of claims for civil penalties under
12 the Private Attorneys General Act of 2004 (“PAGA Settlement”). The
13 Settlement Administrator shall pay seventy-five percent (75%) of the PAGA
14 Settlement (\$7,500) to the California Labor and Workforce Development
15 Agency no later than twenty-five (25) calendar days after the Funding Date
16 (hereinafter “LWDA Payment”). Twenty-five (25%) of the PAGA Settlement
17 (\$2,500) will be distributed to the Aggrieved Employees as described in this
18 Agreement (hereinafter “Aggrieved Employee Payment”). For purposes of
19 distributing the PAGA Settlement to the Aggrieved Employees, each
20 Aggrieved Employee shall receive their pro-rata share of the Aggrieved
21 Employee Payment using the PAGA Payment Ratio as defined above.
22

23
24 12. Settlement Administration Costs. The Settlement Administrator shall be paid
25 for the costs of administration of the Settlement from the Total Settlement
26 Amount. The estimate of the Settlement Administration Costs is \$8,500. The
27
28

1 Settlement Administrator shall be paid the Settlement Administration Costs
2 no later than twenty-five (25) calendar days after the Funding Date.

3
4 N. Defendant's Option to Revoke Settlement. Defendant has the right to revoke the
5 Settlement and Defendant shall have the option to terminate this Settlement if, after
6 the Responsive Deadline, the number of Settlement Class Members who submitted
7 timely and valid written requests for exclusion from the Settlement is at least ten
8 percent (10%) of all Settlement Class Members. If Defendant exercises the option to
9 terminate this Settlement, Defendant shall: (a) provide written notice to Class Counsel
10 within five (5) calendar days after (i) providing the Class Date to the Settlement
11 Administrator or (ii) the Settlement Administrator provides information regarding opt
12 outs (which can occur no later than fourteen (14) calendar days after the Response
13 Deadline, and (b) pay all Settlement Administration Costs incurred up to the date or
14 as result of the termination; and the Parties shall proceed in all respects as if this
15 Agreement had not been executed.

16
17
18 O. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with
19 the Court a Motion for Order Granting Final Approval and Entering Judgment, within
20 twenty-eight (28) days following the expiration of the Response Deadline, which
21 motion shall request final approval of the Settlement and a determination of the
22 amounts payable for the Class Representative Service Award, the Class Counsel
23 Award, the PAGA Settlement, and the Settlement Administration Costs. Plaintiff will
24 provide Defendant with a draft of the Motion at least 3 business days prior to the filing
25 of the Motion to give Defendant an opportunity to propose changes or additions to
26 the Motion
27
28

1 1. Declaration by Settlement Administrator. No later than fourteen (14) days
2 after the Response Deadline, the Settlement Administrator shall submit a
3 declaration in support of Plaintiff's motion for final approval of this
4 Settlement detailing the number of Notice Packets mailed and re-mailed to
5 Class Members, the number of undeliverable Notice Packets, the number of
6 timely requests for exclusion, the number of objections received, the amount
7 of the average Individual Settlement Payment and highest Individual
8 Settlement Payment, the Settlement Administration Costs, and any other
9 information as the Parties mutually agree or the Court orders the Settlement
10 Administrator to provide.

11
12
13 2. Final Approval Order and Judgment. Class Counsel shall present an Order
14 Granting Final Approval of Class Action Settlement to the Court for its
15 approval, and Judgment thereon, at the time Class Counsel files the Motion
16 for Final Approval.

17
18 N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
19 an opportunity for Counsel for Defendant to review the Motions for Preliminary and
20 Final Approval, including the Order Granting Final Approval of Class Action
21 Settlement, and Judgment before filing with the Court. The Parties and their counsel
22 will cooperate with each other and use their best efforts to affect the Court's approval
23 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
24 Judgment.

- 1 O. Cooperation. The Parties and their counsel will cooperate with each other and use
2 their best efforts to implement the Settlement.
- 3
- 4 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Actions,
5 except such proceedings necessary to implement and complete the Settlement, pending
6 the Final Approval/Settlement Fairness Hearing to be conducted by the Court
7
- 8 Q. Amendment or Modification. This Agreement may be amended or modified only by
9 a written instrument signed by counsel for all Parties or their successors-in-interest.
10
- 11 R. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
12 Agreement among these Parties, and no oral or written representations, warranties or
13 inducements have been made to any Party concerning this Agreement or its Exhibit
14 other than the representations, warranties and covenants contained and memorialized
15 in this Agreement and its Exhibit.
16
- 17 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
18 represent they are expressly authorized by the Parties whom they represent to negotiate
19 this Agreement and to take all appropriate Action required or permitted to be taken by
20 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
21 documents required to effectuate the terms of this Agreement. The persons signing
22 this Agreement on behalf of Defendant represents and warrants that he/she is
23 authorized to sign this Agreement on behalf of Defendant. Plaintiff represents and
24 warrants that she is authorized to sign this Agreement and that she has not assigned
25 any claim, or part of a claim, covered by this Settlement to a third-party.
26
27
28

1 T. No Public Comment: The Parties and their counsel agree that they will not issue any
2 press releases, initiate any contact with the press, respond to any press inquiry, or have
3 any communication with the press about the fact, amount or terms of the Settlement
4 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
5 of its terms for any marketing or promotional purposes. Nothing herein will restrict
6 Class Counsel from including publicly available information regarding this settlement
7 in future judicial submissions regarding Class Counsel's qualifications and experience.
8 Further, Class Counsel will not include, reference or use the Settlement Agreement for
9 any marketing or promotional purposes, , either before or after the Motion for
10 Preliminary Approval is filed.
11

12
13 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
14 to the benefit of, the successors or assigns of the Parties, as previously defined.
15

16 V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
17 shall be governed by and interpreted according to the laws of the State of California.
18

19 W. Counterparts. This Agreement may be executed in one or more counterparts. All
20 executed counterparts and each of them shall be deemed to be one and the same
21 instrument provided that counsel for the Parties to this Agreement shall exchange
22 among themselves copies or originals of the signed counterparts.
23

24 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
25 is a fair, adequate and reasonable settlement of this Action and have arrived at this
26 Settlement after extensive arms-length negotiations, taking into account all relevant
27 factors, present and potential.
28

1 Y. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
2 respect to the interpretation, implementation and enforcement of the terms of this
3 Agreement and all orders and judgments entered in connection therewith, and the
4 Parties and their counsel submit to the jurisdiction of the Court for purposes of
5 interpreting, implementing and enforcing the settlement and all orders and judgments
6 entered in connection with this Agreement.

7
8 Z. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
9 the Court shall first attempt to construe the provisions valid to the fullest extent
10 possible consistent with applicable precedents so as to define all provisions of this
11 Agreement valid and enforceable.

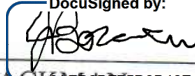
12
13 AA. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently
14 intend to pursue any claims against the Released Parties, including, but not limited to,
15 any and all claims relating to or arising from Plaintiff's employment with Defendant,
16 regardless of whether Class Counsel is currently aware of any facts or legal theories
17 upon which any claims or causes of action could be brought against Released Parties,
18 including those facts or legal theories alleged in the operative complaint in this Action.
19 The Parties further acknowledge, understand and agree that this representation is
20 essential to the Agreement and that this Agreement would not have been entered into
21 were it not for this representation.

22
23
24 BB. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
25 certification for purposes of this settlement only.
26
27
28

1 CC. No Admissions by the Parties. Plaintiff has claimed and continues to claim that the
 2 Released Claims have merit and give rise to liability on the part of Defendant.
 3 Defendant claims that the Released Claims have no merit and do not give rise to
 4 liability. This Agreement is a compromise of disputed claims. Nothing contained in
 5 this Agreement and no documents referred to and no action taken to carry out this
 6 Agreement may be construed or used as an admission by or against the Defendant or
 7 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
 8 than as may be specifically set forth herein, each Party shall be responsible for and
 9 shall bear its/his own attorney's fees and costs.
 10

11
 12 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

13
 14 DATED: 8/24/2021

DocuSigned by:

 15 JESSICA BARACKMAN
 16 16AFD9BF75D9B46F...

17
 18 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

19
 20 DATED: 8/19/21


 21 EBS ENTERPRISES, INC. d.b.a. TEAZ N PLEAZ


 22 Printed Name


 23 Title
 24

25
 26 IT IS SO AGREED AS TO FORM BY COUNSEL:
 27
 28

1 DATED: 8/24/2021
2 _____
3
4
5
6

JCL LAW FIRM, A.P.C.

By: _____
DocuSigned by:
Jean-Claude Lapuyade
0EBC25D5B9CD469...

Attorneys for Plaintiff and the Settlement Class
Members

7 DATED: 8/24/2021
8 _____
9
10
11
12

ZAKAY LAW GROUP, APLC

By: _____
DocuSigned by:
Shani B. Zakay
4ECDE73A91D4420...

Attorneys for Plaintiff and the Settlement Class
Members

13 DATED: 8/24/2021
14 _____
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SCOTT E. GIZER
BRETT G. MOORE
EARLY SULLIVAN WRIGHT GIZER & McRAE

LLP.

By: _____
Scott E. Gizer

Attorneys for Defendants

EXHIBIT A

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE**

(Barackman v. Teaz N Pleaz Inc. El Dorado County Superior Court Case No. SC 20200179)

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendant as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of El Dorado (the “Court”) has been reached between Plaintiff Jessica Barackman (“Plaintiff”) and Defendant E.B.S. Enterprises, Inc. a Texas Corporation d.b.a. Teaz N Pleaz (“Defendant”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All non-exempt employees who are or previously were employed by Defendant in California during the Class Period.

The “Class Period” is the period of time running from October 12, 2016 until May 10, 2021.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On December 21, 2020, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of Ventura. Plaintiff asserted claims that Defendant: (a) Violated California Business and Professions Code § 17200 *et seq.*; (b) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (c) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (f) Failed to reimburse Plaintiff for required expenses in violation of California Labor Code 2802; (g) Failed to provide accurate and complete itemized wage statements in violation of California Labor Code § 226; (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202, and 203; and (i) Violations of the Private Attorney General Act at Labor Code Section 2698, *et seq.*

Defendant denies and disputes all claims asserted in the Actions. Specifically, Defendant contended (and continues to contend) that the Action could not properly be maintained as a class action; that Defendant properly paid members of the class all wages and overtime that was due; that Defendant provided members of the class with all legally required meal breaks and rest breaks; that Defendants paid any members of the class all wages due them at the time of their terminations; that Defendant provided accurate, itemized wage statements to members of the class; that Defendant did not violate California Business and Professions Code section 17200 *et seq.*; and that Defendant is not liable for any of the penalties claimed or that could be claimed in the Actions.

On May 10, 2021, the Parties participated in an all-day mediation with Hon. Carl J. West (RET), a respected jurist and an experienced mediator of wage and hour class actions. At the conclusion of the full-day mediation, the Parties reached an agreement for settlement. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, APC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an “all in” amount of Two Hundred Twenty-Five Thousand Dollars (\$225,000) (the “Gross Settlement Amount”) to fund the settlement. The Gross Settlement Amount includes the payment of all Settlement Shares to Participating Class Members, Class Counsel’s attorneys’ fees and costs, Settlement Administration Expenses, the LWDA Payment, PAGA Shares, and the Class Representative Service Payments to the Plaintiff.

After the Judgment becomes Final, Defendant will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed and the Judgment is affirmed.

Amounts to be Paid From the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$8,500 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.
- Attorneys’ Fees and Costs. Payment to Class Counsel of an award of a Class Counsel Fees Payment of no more than 1/3 of the Gross Settlement Amount (currently \$75,000) and a Class Counsel Litigation

Expenses Payment of not more than \$15,000.00 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Actions on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.

- Class Representative Service Payment. Class Representative Service Payment of up to Ten Thousand and Dollars (\$10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate her for services on behalf of the Class in initiating and prosecuting the Action, and for the risks she undertook.
- PAGA Payment. A payment of \$10,000 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$7,500.00 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$2,500.00 will be distributed to PAGA Employees as part of the Net PAGA Amount.
- Calculation of Payments to Participating Class Members. After all the above payments of the court-approved Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payments, the LWDA Payment, and the Settlement Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Participating Class Members"). The Settlement Share for each Participating Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Participating Class Members that occurred during the Class Period and multiplying the result by each individual Participating Class Member's workweeks that occurred during the Class Period. A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendant's records, a member of the class worked at least one-day during any such workweek.
- Calculation of PAGA Penalties Payments to PAGA Employees. The Net PAGA Amount shall be distributed to PAGA Employees irrespective of whether they exclude themselves or opt-out. The Net PAGA Amount will be divided by the total number of Workweeks worked by all PAGA Employees during the PAGA Period, and then taking that number and multiplying it by the number of Workweeks worked by each respective PAGA Employee during the PAGA Period. "PAGA Employees" means all non-exempt employees who are or previously were employed by Defendant in California during the PAGA Period. The PAGA Period means the period between October 12, 2019 until May 10, 2021.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to insure you receive your payment.

Tax Matters. 1/3 of each Settlement Share is allocated to wages. Taxes are withheld from this amount, and each Participating Class Member will be issued an Internal Revenue Service Form W-2 for such payment. 2/3 of each Settlement Share is allocated to interest, penalties and other non-wage payments, and no taxes will be withheld, and each Participating Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from the PAGA Penalties paid to PAGA Employees, and each PAGA Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant's counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Claims. Upon entry of final judgment and funding in full of the Gross Settlement Amount by Defendant, Plaintiff and the Participating Class Members shall release all Released Class Claims that occurred during the Class Period as to the Released Parties. **Released Class Claims** means all class claims alleged in the operative complaint which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period.. The Released PAGA Claims shall be released as follows. As of the Settlement Effective Date and upon funding in full of the Gross Settlement Amount by Defendant, all Aggrieved Employees shall release all Released PAGA Claims, irrespective of whether they opted-out of the class settlement, and will be bound by this PAGA Release (the "PAGA Release"). "Released PAGA Claims" means all PAGA claims alleged in the operative complaint and Plaintiff's PAGA notice to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims vested benefits, unpaid wages, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside the PAGA Period

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

5. How much will my payment be?

Defendant's records reflect that you have <<____>> Workweeks worked during the Class Period (October 12, 2016 until May 10, 2021).

Based on this information, your estimated Settlement Share is <<____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _____ [forty-five (45) days after the Notice or re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: _____. (800) _____.

The Court will hold a hearing on _____ to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at www._____.com

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the Net PAGA Amount.

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than _____. The address for the Settlement Administrator is _____. The request for exclusion must state in substance: "I have read the Class Notice and I wish to opt out of the class action and settlement of the case ***Barackman v. Teaz N Pleaz Inc. Case No. SC 20200179.***" The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is ***Barackman v. Teaz N Pleaz Inc. Case No. SC 20200179.*** You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than _____. The address for the Settlement Administrator is _____.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
3990 Old Town Ave., Suite C204
San Diego, CA 92110
Tel.: (619) 599-8292
Fax: (619) 599-2891
E-Mail: jlapuyade@jcl-lawfirm.com

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
3990 Old Town Ave., Suite C204
Tel: (619) 599-8292
Fax: (619) 599-8291
Email: shani@zakaylaw.com
Website: www.zakaylaw.com

Counsel for Defendant:

Scott E. Gizer
Early Sullivan Wright Gizer & McRae
LLP
6420 Wilshire Boulevard, 17th Floor
Los Angeles, California 90048
Tel.: (323) 301-4660
Fax: (323) 301-4676
E-Mail: sgizer@earllysullivan.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at 00:00 AM/PM on _____, at the **El Dorado County Superior Court, located at 1354 Johnson Blvd., South Lake Tahoe, CA 96150** before Judge Michael J. McLaughlin. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at _____ or write to ***Barackman v. Teaz N Pleaz Inc. Case No. SC 20200179***, Settlement Administrator, c/o _____.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to JCL Law firm, APC, 3990 Old Town Ave., Suite C204, San Diego, CA 92110.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to the Participating Class Members who cashed his or her Settlement Share check using the same workweek formula used for distribution of the Net Settlement Amount. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 2

EXHIBIT 3

Zakay Law Group, APC
3990 Old Town Ave. Suite C204
San Diego, California 92110
Telephone: (619) 255-9047
Fax: (858) 404-9203

1. Firm Practice Areas:

Employment Litigation, Employment Class Action, Wage and Hour Class Actions, Civil Litigation, Business Litigation, Corporate/Business General Counsel Advice.

2. Attorney Shani O. Zakay Biography:

• **PRACITCE AREAS**

Employment Litigation, Employment Class Action, Wage and Hour Class Actions, Civil Litigation, Business Litigation, Corporate/Business General Counsel Advice.

• **BAR ADMISSIONS, MEMBERSHIPS & BOARDS**

State of California (all courts)
United States District Court of California (all courts)
United States District Court of Indiana for the Northern District
United States Court of Appeals for the 9th Circuit

• **PROFESSIONAL EXPERIENCE**

ZAKAY LAW GROUP, APLC, San Diego, CA
Founder, April 2018

SILLDORF LAW, LLP, San Diego, CA (now known as Berding & Weil)
Partner, January 2012 – March 2018

• **EDUCATION**

CALIFORNIA WESTERN SCHOOL OF LAW, San Diego, CA

Juris Doctor, *magna cum laude*, April 2011

Honors: Dean's List: Spring 2009, Fall 2009, Spring 2010, Fall 2010, Spring 2011.

Academic Achievement Awards: Advanced Legal Research, Constitutional Law II, Criminal Procedure, Insurance Law & Litigation, Law Office Technologies, Property II, Products Liability, Trusts & Estates.

Activities: Associate Editor, *California Western Law Review*
Legal Skills Honor Instructor for Professor Leslie Culver
Vice President, Jewish Student Union

SAN DIEGO STATE UNIVERSITY, San Diego, CA

Bachelor of Science, Business Administration, Management, *cum laude*, May 2008

Honors: Dean's List: Spring 2007 and Fall 2007

- **COMMUNITY SERVICE**

CALIFORNIA WESTERN SCHOOL OF LAW, San Diego, CA
Spring 2016, 2018
Moot Court Judge

COMMUNITY LAW PROJECT, San Diego, CA
October 2018 – Present
Volunteer Attorney on Employment Matters

3. **Attorney Jackland K. Hom Biography:**

- **PRACTICE AREAS**

Employment Litigation, Employment Class Action, Wage and Hour Class Actions, Civil Litigation.

- **BAR ADMISSIONS, MEMBERSHIPS & BOARDS**

State of California (all courts)
United States District Courts of California (all courts)

- **PROFESSIONAL EXPERIENCE**

ZAKAY LAW GROUP, APLC, San Diego, CA
Associate, January 2021 - present

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP, San Diego, CA
Associate, November 2019 – September 2020

- **EDUCATION**

CALIFORNIA WESTERN SCHOOL OF LAW, San Diego, CA
Juris Doctor, April 2019

Honors: Dean's List: Fall 2017, Spring 2018.

Academic Achievement Awards: Advanced Prosecution Function.

Activities: Senior Editor, *California Western Law Review*
President, Asian Pacific American Law Students Association

UNIVERSITY OF CALIFORNIA, RIVERSIDE, Riverside, CA
Bachelor of Arts: Political Science, English Literature, June 2015
Honors: Dean's List

4. Class Action & Representative Cases:

1. Hubscher v. Bodyspirit, LLC

Court	San Diego
Case No.	37-2016-00021261-CU-OE-CTL
Nature	Independent Contractor Misclassification
Status	Settled

2. Henry v. InMotion Entertainment Group, LLC

Court	San Francisco
Case No.	CGC-18-565643
Nature	Meal/Rest Break claims and overtime and regular rate claims
Status	Settled

3. Moore v. Zirx Transportation

Court	San Francisco
Case No.	CGC-18-566655
Nature	Independent Contractor Misclassification
Status	Settled

4. Pasallo v. GSG Protective Services

Court	San Diego
Case No.	37-2018-00037611-CU-OE-CTL
Nature	Meal/Rest Break claims
Status	Settled

5. Villaroman v. C.C.H.C.

Court	Orange County
Case No.	30-2018-01013128-CU-OE-CXC
Nature	Meal/Rest Break claims
Status	Settled

6. Flores v. Plastic Express

Court	Los Angeles
Case No.	BC719071
Nature	Meal/Rest Break and minimum wage claims
Status	Settled

7. Tressler v. Spoonful Management

Court	Los Angeles
Case No.	BC719405
Nature	Meal/Rest Break claims
Status	Settled

8. Leymaster v. Toms Sierra Company, Inc.

Court	Placer
Case No.	SCV0041735
Nature	Meal/Rest Break claims and overtime and regular rate claims
Status	Settled

9. Murphy v. Rockler Retailer Group, Inc.

Court	Sacramento
Case No.	34-2018-00241374
Nature	Overtime and regular rate claims and wrongful termination
Status	Settled

10. Bruemmer v. Tempur Retail Stores, LLC.

Court	Marin
Case No.	CIV1803646
Nature	Overtime and regular rate claims and wrongful termination
Status	Settled

11. Christina Cummings v. G6 Hospitality, LLC

Court	San Diego
Case No.	37-2018-00056207-CU-OE-CTL 19CV122 GPC LL
Nature	Overtime and Minimum Wage claims and Meal and Rest Breaks
Status	Settled

12. Nicolai Laguatan v. Prevent LSS

Court	San Diego
Case No.	37-2018-00057434-CU-OE-CTL
Nature	Overtime and Minimum Wage claims and Meal and Rest Breaks
Status	Settled

13. Lisa Ramirez v. Carefusion Resources, LLC

Court	San Diego
Case No.	37-2018-00058078-CU-OE-CTL 3:18-CV-02852-BEN-MSB
Nature	Overtime and Meal and Rest Breaks
Status	Settled

14. Charles Ornelas v. C&A Transportation Services

Court	San Diego
Case No.	37-2018-00061289-CU-OE-CTL
Nature	Minimum Wage and Meal/Rest Break claims
Status	Settled

15. Luz Marin v. California Marine Cleaning

Court	San Diego
Case No.	37-2018-00063483-CU-OE-CTL
Nature	Meal Break claims
Status	Settled

16. Christian Van Cleave v. Sunrise Senior Living Management

Court	San Diego
Case No.	37-2018-00061960-CU-OE-CTL 19CV0044BEN NLS
Nature	Regular rate and meal premium miscalculation
Status	Settled

17. Heather McIntyre v. JRR Enterprises

Court	Sacramento
Case No.	34-2019-00251220
Nature	Overtime and Meal and Rest Periods
Status	Settled

18. Lori Phipps v. Soapy Joe's

Court	San Diego
Case No.	37-2019-00017673-CU-OE-CTL
Nature	Tip Polling and Meal and Rest Periods
Status	Settled

19. Heather Broughton v. NFG San Francisco, LLC

Court	San Francisco
Case No.	CGC-19-574657
Nature	Meal and Rest Breaks
Status	Settled

20. Marcos Antonios v. Interface Rehab, LLC

Court	Orange County
Case No.	30-2019-01067547-CU-OE-CXC
Nature	Meal and Rest Breaks and Reporting Time Violations
Status	Settled

21. Tiffany Rodriguez v. Circle K

Court	Riverside
Case No.	RIC 1901407 5:19-cv-00469
Nature	Overtime Wage and Meal/Rest Break claims
Status	Settled

22. Derik Scott et al. v. Ultimate Performance

Court	Los Angeles
Case No.	19STCV22823
Nature	Piece Rate Pay violations
Status	Settled

23. Raymond Frazier v. Asa Carlton

Court	San Diego
Case No.	37-2019-00036147-CU-OE-CTL
Nature	Overtime Wages
Status	Settled

24. John Moreno v. Da Kitchen

Court	San Diego
Case No.	37-2019-00024885-CU-OE-CTL
Nature	Overtime Wage and Meal/Rest Break claims
Status	Settled

25. Penny Lane v. International Aero Clubs, LLC

Court	San Diego
Case No.	37-2019-00021793-CU-OE-CTL
Nature	Meal and Rest Breaks and Regular Rate Miscalculation
Status	Settled

26. Amber Price v. DMSD Restaurants

Court	San Diego
Case No.	37-2019-00024062-CU-OE-CTL
Nature	Meal and Rest Break violations
Status	Settled

27. Jamaal Johnson v. Volt Management Corp

Court	Los Angeles
Case No.	19STCV16466
Nature	On Duty Meal Break violations
Status	Settled

28. Ezzat Menias v. All American Private Security

Court	Orange County
Case No.	30-2019-01085120-CU-OE-CXC
Nature	On Duty Meal Break violations
Status	Settled

29. Mark Connor v. Ascendant Marketing

Court	San Diego
Case No.	37-2019-00026864-CU-OE-CTL
Nature	Minimum Wage violations
Status	Settled

30. Niki Nunez v. Home Depot

Court	San Joaquin
Case No.	STK-CV-406-2019-6656
Nature	Overtime Wages violations
Status	Settled

31. Alma Salazar v. Frontier Toyota

Court	Los Angeles
Case No.	19STCV20382
Nature	Rest Break violations
Status	Settled

32. Josefina Garces v. Kar Auction Services

Court	Los Angeles
Case No.	19STCV28489
Nature	Rest Break violations
Status	Settled

33. Madison Weiss v. Niznik Behavior

Court	San Diego
Case No.	37-2019-00039441-CU-OE-CTL
Nature	Meal and Rest Break violations
Status	Settled

34. Jimmy Mack v. ERM Enterprises

Court	Sacramento
Case No.	2019-00262259
Nature	Meal and Rest Break violations
Status	Settled

35. Josefina Garces v. DriverDo

Court	Los Angeles
Case No.	19STCV32773
Nature	Independent Contractor Misclassification
Status	In Litigation

36. Perseus Porras v. Tantalum Restaurant

Court	Los Angeles
Case No.	19STCV31015
Nature	Unpaid Wages + Missed Meal/Rest Breaks
Status	Settled

37. Dorcena Deutsch v. Scripps

Court	San Diego
Case No.	37-2019-00036333-CU-OE-CTL
Nature	Regular Rate Miscalculation for Nurses
Status	Settled

38. Josalyn O'Quinn v. Laugh Factory

Court	Los Angeles
Case No.	19STCV28155
Nature	Regular Rate Miscalculation, Wage Theft
Status	In Litigation

39. Nicholas Leon v. Miller Event Management

Court	San Luis Obispo
Case No.	19CV-0435
Nature	Meal/Rest Breaks, Reporting Time, 2802
Status	Settled

40. Aaris Watts v. TRL Systems

Court	Orange County
Case No.	30-2019-01102457-CU-OE-CXC
Nature	Meal/Rest Breaks, Reporting Time
Status	In Litigation

41. Faith Smith v. Island Pizza

Court	Contra Costa
Case No.	MSC19-01654
Nature	Meal/Rest Breaks, 226, 2802
Status	Settled

42. Johnathan Roa v. Otay Mesa Sales

Court	San Diego
Case No.	37-2019-00057735-CU-OE-CTL
Nature	Meal/Rest Breaks, 226
Status	In Litigation

43. Sabrina Iyon v. Sinclair Television of California

Court	Humboldt
Case No.	DR190699
Nature	Vaquero
Status	In Litigation

44. Jonathan Mitchell v. Mack Trucking

Court	San Bernardino
Case No.	CIVDS1928334
Nature	Independent Contractor Misclassification
Status	In Litigation

45. Curtis Edwards v. Resolve Group

Court	San Francisco
Case No.	CGC-19-579095
Nature	Meal & Rest Breaks + 2802
Status	In Litigation

46. Elena Kiseleva v. TotalMed Staffing, Inc

Court	Santa Clara
Case No.	19CV354635
Nature	Overtime + Meal and Rest Breaks
Status	Settled

47. Richard Jer Vang v. Bridge Property Management

Court	Alameda
Judge	Winfred Smith
Nature	Off the clock work, regular rate miscalc.
Status	Settled

48. Madison Marrero v. Stat Med

Court	Alameda
Case No.	HG19043214
Nature	Unpaid Overtime + Meal/Rest Breaks
Status	In Litigation

49. Brian Reyes v. Stowasser Buick-GMC

Court	Santa Barbara
Case No.	19CV06183
Nature	Vaquero
Status	Settled

50. Erik Foss v. Anderson Hospitality, Inc.

Court	Shasta
Case No.	195317
OPC	Wood Smith – Andrew Kleiner
Nature	Meal and Rest Breaks, Regular Rate
Status	In Litigation

51. Griselda Duran v. EmployBridge

Court	Kern
Case No.	BCV-20-101583
Nature	Regular Rate, 226
Status	In Litigation

52. Luis Rendon v. Healthcare Investments, Inc.

Court	Los Angeles
Case No.	20STCV39775
Nature	Meal and Rest Breaks
Status	In Litigation

53. Richard Melead v. TVI, Inc.

Court	Orange
Case No.	30-2020-01140887-CU-OE-CXC
Nature	Regular Rate, 226 (Magadia)
Status	In Litigation

54. David Spencer v. Asset Gas, Inc.

Court	San Diego
Case No.	37-2020-00024642-CU-OE-CTL
Nature	Meal and Rest Breaks
Status	Settled

55. Thomas Haven v. California Vocations, Inc.

Court	Butte
Case No.	20CV01514
Nature	Regular Rate + Meal and Rest Breaks
Status	In Litigation

56. Estefania Renteria v. Love's Country

Court	Kern
Case No.	BCV-20-101260
Nature	226
Status	In Litigation

57. Rachel Latin v. OneMain General Services Corp.

Court	Stanislaus
Case No.	CV-20-002498
Nature	Dart + Magadia
Status	In Litigation

58. Kalaina Dula v. 2 Kings Gaming, Inc.

Court	Merced
Case No.	#20CV-02289
Nature	Meal and Rest Breaks
Status	In Litigation

59. Jie Xu v. HT Multinational

Court	San Bernardino
Case No.	CIV-DS2015679
Nature	Exempt Misclassification
Status	In Litigation

60. Yvette Molina v. Hawaiian Airlines

Court	Los Angeles
Case No.	20STCV28079
Nature	Meal and Rest + Magadia
Status	In Litigation

61. Reinald Pillsbury v. T & T Restaurants CA

Court	Del Norte
Case No.	CVUJ-2020-1214
Nature	Meal/Rest Breaks + Regular Rate
Status	Settled

62. Luis de Jesus v. Guardian Angel Home Care

Court	San Diego
Case No.	37-2020-00021049-CU-OE-CTL
Nature	Piece-Rate
Status	In Litigation

63. Charles Sandlin v. Secure Nursing Services, Inc.

Court	Los Angeles
Case No.	20STCV25675
Nature	Regular Rate
Status	Settled

64. Gabriel Mendez v. Bondz, Inc.

Court	San Joaquin
Case No.	STK-CV-UOE-2020-0007486
Nature	Piece-Rate
Status	In Litigation

65. James Conley v. Siskiyou Forest Products

Court	Shasta
Case No.	195819
Nature	Regular Rate and Meal/Rest Breaks + 226
Status	In Litigation

66. Alex Castellanos v. Southwest Patrol

Court	San Diego
Case No.	37-2020-00024905-CU-OE-CTL
Nature	Augutus
Status	In Litigation

67. Damien Hampton v. Pegasus Investors

Court	Sacramento
Case No.	34-2020-00281394-CU-BT-GDS
Nature	Unlawful Housing
Status	In Litigation

68. Tamara Perkins v. FSEI

Court	Sacramento
--------------	------------

Case No.	34-2020-00287054
Nature	Regular Rate
Status	In Litigation

69. Rodney Stovall v. Javelin Logistics Company

Court	Alameda
Case No.	RG20075705
Nature	Meal / Rest Breaks
Status	In Litigation

70. Gabrielle Boyd v. Bluestone Lane Holdings, LLC

Court	San Francisco
Case No.	CGC-20-585787
Nature	Tip Pooling ; Magadia
Status	In Litigation

71. Elias Kaser v. Aviation Consultants, Inc.

Court	Orange County
Case No.	
Nature	Meal / Rest Breaks, Regular Rate
Status	Settled

72. Christopher Chacon v. Panda Motors, Inc.

Court	San Bernardino
Case No.	CIV DS2022220
Nature	Regular Rate
Status	In Litigation

73. Willie Lang v. Pathways

Court	San Diego
Case No.	37-2019-00049969
Nature	Off the Clock
Status	In Litigation

74. Norma Reyes v. Simpson Garden Grove, Inc.

Court	Orange
Case No.	30-2020-0117564-CU-OE-CJC
Nature	Meal / Rest Breaks
Status	Settled

75. Daniel Jacobs v. Rush Media Company

Court	Los Angeles
Case No.	20STCV32350
Nature	Independent Contractor Misclassification
Status	In Litigation

76. Luis Ledesma v. TVJ Sons I, Inc.

Court	Santa Barbara
Case No.	20CV03573
Nature	Vaquero
Status	In Litigation

77. Kevin Cianfarani v. Career Strategies Temporary, Inc. (MPI)

Court	Los Angeles
Case No.	
Nature	Off the clock work
Status	Settled

78. Hector Avitia v. LAZ Parking

Court	San Diego
Case No	37-2020-00030133-CU-OE-CTL
Nature	Magadia + Augustus
Status	In Litigation

79. Sukhraj Kaur v. ACES 2020, LLC

Court	Contra Costa
Case No.	C20-02482
Nature	Meal/Rest Breaks, 2802
Status	In Litigation

80. Boaventura v. Rei Do Gado

Court	Contra Costa
Case No.	37-2020-00032342-CU-OE-CTL
Nature	Meal/Rest Breaks, 2802
Status	In Litigation

81. James Rachal v. ELG Metals, Inc.

Court	Los Angeles
Case No.	20STCV45861
Nature	Meal/Rest Breaks, Regular Rate
Status	In Litigation

82. Evelyn Nwansi v. Princeton Healthcare Center, LLC

Court	Alameda
Case No.	RG20083664
Nature	Meal/Rest Breaks, Unpaid Overtime
Status	In Litigation

83. Michael Ashlock v. Advantis Medical Staffing

Court	San Diego
Case No.	37-2020-00022305-CU-OE-CTL
Nature	Regular Rate
Status	Settled

84. Moe Popal v. Ameriprise Auto & Home Insurance

Court	Riverside
Case No.	RIC2000006
Nature	Exempt/Non-Exempt Misclassification
Status	Settled

85. Mark Williams v. Web to Door

Court	San Francisco
Case No.	
Nature	Meal and Rest Break + Regular Rate
Status	In Litigation

86. Jessica Barackman v. Teaz N Pleaz, Inc.

Court	El Dorado
Case No.	SC20200179
Nature	Meal/Rest Breaks, Seating
Status	In Litigation

87. Nicolas Neutall v. Urban Alchemy

Court	San Francisco
Case No.	CGC-20-588622
Nature	Meal/Rest Breaks, Unpaid Overtime
Status	In Litigation