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7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **FOR THE COUNTY OF LOS ANGELES**

9 MICHAEL NEVAREZ,

10 *Plaintiff,*

11
12 vs.

13
14 LYNWOOD ROADS DELIVERY, LLC
and DOES 1 to 25, inclusive

15
16 *Defendant(s).*

Case No.: 21STCV41387

**[PROPOSED] ORDER GRANTING MOTION
FOR APPROVAL OF PAGA SETTLEMENT
AND FINAL JUDGMENT**

Action filed: 11/9/21

Hearing
Date/Time:
February 18, 2022,
8:30am

Reservation ID:
456599702632

Department: 48,
Hon. Laura Seigle

Submitted Herewith Under Separate Cover:

1. Motion for Approval of PAGA Settlement and Release; and
2. Declaration of Harout Messrelia In Support of Motion for Approval of PAGA Settlement and Release

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3. The Covered Period is the period from November 19, 2019 through and including

1 the date the Court grants approval of the settlement between Plaintiff and Defendant and signs
2 this Order and Final Judgment.

3 4. The Court hereby orders that, pursuant to the Settlement Agreement, Defendant shall pay
4 the Gross Settlement Amount of One-Hundred Thirty-Five Thousand Dollars (\$135,000) to the
5 Settlement Administrator pursuant to the terms of the Settlement Agreement.

6 5. The Court approves the scope of the release contained in the Settlement Agreement.
7 Following entry of this Order and Final Judgment, Plaintiff, all Aggrieved Employees and the State of
8 California will release the Released Persons from the Released Claims, as follows:

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10 As of the Effective Date, regardless of whether they actually
11 receive notice of the Settlement or any payment pursuant to the
12 Settlement, Plaintiff, the Aggrieved Employees, and the State of
13 California release the Released Persons ("Released Persons" is
14 defined as Defendant, Amuse Holdings, Inc., Open Road Delivery
15 Holdings, Inc., Redwood Road Delivery, Inc., Highwood Delivery
16 Services, LLC, Pinewood Fleet Services, LLC, NCC Brisbane,
17 LLC, Gotham Green Partners, LLC and Natural Plant Extract of
18 California, Inc., and each of their parent, subsidiary, and/or
19 affiliate entities, and each of their predecessors, successors, and
20 assigns, and each of their respective past and present members,
21 shareholders, owners, partners, directors, officers, employees,
22 attorneys, insurers, servants, investors, joint employers, founders,
23 managers, managing agents, lenders, representatives and agents
24 (including, but not limited to, Trevor Mayer), and as to any
25 individual their marital community, community property, trustees,
26 executors, heirs, guardians and registered representatives. Without
27 in any way limiting the foregoing, "Released Persons" expressly
28 includes any individual or entity which could be jointly and/or
severally liable with Defendant.) from all claims, liabilities and/or
causes of action for civil penalties for violations allegedly
occurring during the Covered Period that Plaintiff, the Aggrieved
Employees, and/or the State of California may have under the
California Labor Code, IWC Wage Orders, state and/or federal
regulations, and/or any other provisions of state and/or federal law,
whether known or unknown, suspected or unsuspected, arising
from, related to, or attributable to any allegations that Plaintiff
and/or the Aggrieved Employees suffered Labor Code and/or other
violations based on and/or for (1) failure to pay all wages for all
hours worked, including, but not limited to, for off-the-clock work;
(2) failure to pay all overtime and/or double time wages; (3) failure
to pay overtime wages at the correct regular rates of pay; (4) failure
to pay minimum wages; (5) failure to provide compliant rest
periods and to pay related rest period premiums of one additional
hour of pay at each Aggrieved Employee's regular rate of
compensation for each work day that one or more rest periods was

not provided; (6) failure to provide compliant meal periods and to pay related meal period premiums of one additional hour of pay at each Aggrieved Employee's regular rate of compensation for each work day that one or more meal periods was not provided; (7) failure to timely pay all wages during employment as required by applicable law; (8) failure to timely pay all wages at termination, and failure to pay applicable waiting time penalties; (9) unlawful taking, confiscation, conversion, collection, interference with, receiving and/or handling of gratuities (tips) left by patrons, and failure to return, pay and/or provide all gratuities in a timely fashion, and failure to keep accurate records of all gratuities received; (10) failure to provide compliant, complete and accurate itemized wage statements; (11) failure to maintain accurate and complete timekeeping and payroll records; (12) failure to reimburse all necessary business expenses, losses and/or costs; (13) failure to provide sick pay and to provide notice of sick pay rights; (14) failure to provide Workers' Compensation insurance coverage; (15) violations of Labor Code section 558; (16) unlawful time rounding policies and procedures; (17) unfair business practices (Business & Professions code section 17200); (18) any other Labor Code violations alleged in the Litigation, or that could have been alleged in the Litigation based on the facts alleged in the Litigation; and (19) any other Labor Code violations based on, arising from, related to, or attributable to the facts alleged and contentions raised in the LWDA Notice and/or Plaintiff's State Court Complaint, which include, but are not limited to, alleged violations of Labor Code sections 201-204, 204b, 210, 226, 226.3, 226.7, 232, 246, 351, 353, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, 3700.5; the IWC Wage Orders, including Wage Order nos. 4 and 9; Business & Professions Code section 17200; and the California Code of Regulations (the "Released Claims"). Without in any way limiting the foregoing, and for the avoidance of doubt, Plaintiff, the Aggrieved Employees and the State of California release the Released Persons from all of the Released Claims on behalf of themselves and their heirs, executors, representatives, administrators, agents, insurers, successors and assigns. Further, without in any way limiting the foregoing, and for the avoidance of doubt, Plaintiff, the Aggrieved Employees and the State of California also release the Released Persons from any and all claims for attorneys' fees and/or Litigation costs incurred in connection with the Action or otherwise, including, but not limited to, in connection with prosecuting the Released Claims, other than those attorneys' fees and Litigation costs set forth in the Settlement Agreement that are to be paid from the Gross Settlement Amount to the extent they are approved by the Court.

Without in any way limiting the foregoing, Plaintiff, the Aggrieved Employees and/or the State of California may hereafter discover facts or legal arguments in addition to or different from those they now know or currently believe to be true with respect to the claims, causes of action and legal theories of recovery in the Litigation which are the subject matter of the Released Claims. Regardless, the discovery of new facts or legal arguments shall in no way limit the scope or definition of the Released Claims. 4

1 Further, without in any way limiting the foregoing, Plaintiff, the
2 Aggrieved Employees and the State of California understand that the
3 Settlement Agreement extends to all claims of every nature and kind,
4 known or unknown, suspected or unsuspected, arising from, related to
5 or attributable to the Released Claims only. Plaintiff, the Aggrieved
6 Employees and the State of California expressly waive and relinquish
7 any and all claims, rights or benefits that they may have under California
8 Civil Code § 1542 as to the Released Claims only, and such waiver of
9 Civil Code § 1542 is expressly included within the definition of
10 "Released Claims". Plaintiff, the Aggrieved Employees and/or the State
11 of California may hereafter discover claims or facts in addition to, or
12 different from, those which they know or believe to exist, but Plaintiff,
13 the Aggrieved Employees and the State of California expressly agree to
14 fully, finally and forever settle and release any and all claims against the
15 Released Persons, known or unknown, suspected or unsuspected,
16 which exist or may exist, arising from, related to or attributable to the
17 Released Claims.

18 6. In the event Defendant fails to ever deposit the Gross Settlement Amount with the
19 Settlement Administrator, the foregoing waiver and release of claims shall NOT become
20 effective.

21 7. In addition to the foregoing, Plaintiff has also provided the Released Persons with a
22 general release of all claims along with a waiver of the protections of California Civil Code section
23 1542.

24 8. The Court hereby approves, as to form and content, the Notice of PAGA Settlement and
25 Release of Claims, attached as Exhibit C to the Settlement Agreement (the "Notice"), which shall be
26 mailed via First-Class United States Mail to the Aggrieved Employees in English and Spanish along
27 with the individual settlement payments by the Settlement Administrator pursuant to the terms and
28 procedures outlined in the Settlement Agreement.

9. The Court hereby appoints Phoenix Settlement Administrators as the Settlement
Administrator for this Settlement.

10. The Court finds that the attorneys' fees in the amount of \$45,000 for Plaintiff's Counsel,
and reimbursement of Litigation costs of \$6,729.22 are fair, reasonable and adequate, and orders that
the Settlement Administrator distribute these payments to Plaintiff's Counsel as provided for in the
Settlement Agreement.

1 11. The Court orders that the Settlement Administrator shall be paid \$3,850.00 for all of its
2 work done and to be done until the completion of this matter, and finds that sum appropriate.

3 12. The Court finds that, after the above approved items are deducted from the Gross
4 Settlement Amount, the Net Settlement Amount will be \$79,420.78. Seventy-five percent of this
5 amount (or \$59,565.59) shall be distributed to the State of California Labor and Workforce
6 Development Agency, and the remaining twenty-five percent (or \$19,855.19) shall be distributed to
7 the Aggrieved Employees pursuant to the terms of the Settlement Agreement.

8 13. This Order and Final Judgment shall be binding on all Aggrieved Employees and the
9 State of California, who are hereby barred by the doctrine of Res Judicata from re-litigating the
10 Released Claims. (*See Arias v. Superior Court* (2009) 46 Cal.4th 969, 986).

11 14. The Court shall retain exclusive and continuing jurisdiction over the above-captioned
12 action and the Parties for purposes of enforcing the terms of the Settlement Agreement as well as the
13 Order and Final Judgment pursuant to Code of Civil Procedure section 664.6.

14 15. Plaintiff's counsel is hereby ordered to submit this Order and Final Judgment to the
15 Labor and Workforce Development Agency (LWDA) pursuant to the requirements of Labor
16 Code Section 2699(l)(3).
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19 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**
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23 Date: _____, 2022

24 By: _____
25 Hon. Laura Seigle, Superior Court Judge
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