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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

MARCO RODRIGUEZ, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

NEW PENN FINANCIAL, LLC, a Delaware
corporation; and DOES 1 through 100,
inclusive,

Defendant.

Case No.: 34-2018-00233729

Honorable Shama H. Mesiwala
Department 53

CLASS ACTION

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

[Plaintiff's Motion for Preliminary Approval
of Class Action Settlement; Declaration of
Proposed Class Representative (Marco
Rodriguez); and [Proposed] Order filed
concurrently herewith]

Reservation No.: 2550625
Date: March 8, 2021
Time: 1:30 p.m.
Department: 53

Complaint Filed: May 25, 2018
FAC Filed: September 26, 2018
Trial Date: None Set

DECLARATION OF EDWIN AIWAZIAN

I, Edwin Aiwarzian, hereby declare as follows:

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

EDUCATION

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

JUDICIAL EXTERNSHIPS

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

LITIGATION AND CLASS ACTION EXPERIENCE

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

5. At *Girardi & Keese*, my practice focused on class actions and other complex cases involving toxic torts and products liability. In addition, I gained substantial experience on cases involving insurance bad faith, premises liability, and medical negligence. While employed by

1 *Girardi & Keese*, I argued approximately 100 motions, took or defended approximately 150
2 depositions, and prepared dozens of expert witnesses for deposition or trial.

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

12 **EXAMPLES OF CLASS ACTION RESULTS**

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

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

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

24 c) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
25 and-hour class and representative action against a national property management company
26 involving allegations of misclassification of the “Property Manager” position. On May 23, 2012,
27 the court granted final approval of the class and representative action settlement. The Los Angeles
28 County Superior Court Case Number is BC430918.

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

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

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

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

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

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

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

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

11 l) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
12 and-hour class action against a national retailer of apparel, accessories, and home products,
13 involving allegations of misclassification of the “Department Manager” position. On August 12,
14 2016, the court granted the plaintiffs’ motion for class certification in part and certified a
15 class. The Alameda County Superior Court Case Number is RG13680477.

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

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

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

1 p) Our firm, in association with co-counsel, represented the plaintiffs in a wage-
2 and-hour class and representative action against a manufacturer of food service industry supplies
3 on behalf of non-exempt employees. On April 14, 2017, the court granted final approval of the
4 class and representative action settlement. The Orange County Superior Court Case Number is 30-
5 2015-00810013-CU-OE-CXC.

6 q) Our firm represented the plaintiffs in a wage-and-hour class and
7 representative action against a food company on behalf of non-exempt employees. On June 30,
8 2017, the court granted final approval of the class action settlement. The Sacramento County
9 Superior Court Case Number is 34-2015-00175871.

10 r) Our firm represented the plaintiffs in a wage-and-hour class and
11 representative action against a chocolate company on behalf of non-exempt employees. On July
12 19, 2017, the court granted final approval of the class and representative action settlement. The
13 Alameda County Superior Court Case Number is RG15764300.

14 s) Our firm represented the plaintiffs in a wage-and-hour class and
15 representative action against a manufacturer of plastic containers on behalf of non-exempt
16 employees. On October 31, 2017, the court granted final approval of the class and representative
17 action settlement. The Los Angeles County Superior Court Case Number is BC577233.

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

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

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

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

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

y) Our firm represented the plaintiff in a wage-and-hour class action against a parking company on behalf of non-exempt employees. On September 3, 2019, the court granted the plaintiff's motion for class certification and certified a class. The Santa Clara County Superior Court Case Number is 16CV292208 and the Judicial Council Coordination Proceeding Number is JCCP 4886.

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

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1 aa) Our firm represents the plaintiffs in a wage-and-hour class and representative
2 action against a bank on behalf of non-exempt employees. On September 27, 2019, the court
3 granted the plaintiffs' motion for class certification in part and certified a class. The Alameda
4 County Superior Court Case Number is RG15757606 and the Judicial Council Coordination
5 Proceeding Number is JCCP 4921.

6 bb) Our firm represented the plaintiffs in a wage-and-hour class and
7 representative action against a national retailer of apparel and fashion accessories, on behalf of
8 non-exempt employees. On October 9, 2019, the court granted the plaintiffs' motion for class
9 certification in part and certified a class. The Sacramento County Superior Court Case Number is
10 34-2015-00175330-CU-OE-GDS.

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

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

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

25 ff) Our firm represented the plaintiffs in a wage-and-hour class and PAGA
26 representative action against a plastic packaging company on behalf of non-exempt employees.
27 On June 8, 2020, the court granted in part the plaintiffs' motion for class certification and certified
28 a class. The San Bernardino County Superior Court Case Number is CIVDS1507361.

gg) Our firm, in association with co-counsel, represented the plaintiffs in a wage-and-hour class action against manufacturer and supplier of power products and services on behalf of non-exempt employees. On July 31, 2020, the court granted in part the plaintiffs' motion for class certification and certified a class. The San Diego County Superior Court Case Number is 37-2015-00025968-CU-OE-CTL.

PRELIMINARY APPROVAL

8. Marked and attached hereto as "**EXHIBIT 1**" is the Stipulation of Class Action and PAGA Settlement and Release ("Settlement," "Agreement," or "Settlement Agreement") entered into by and between Plaintiff Marco Rodriguez ("Plaintiff"), individually and on behalf of all similarly situated employees, on the one hand, and Defendant NewRez LLC (formerly known as "New Penn Financial, LLC") ("Defendant"), on the other hand (collectively, the "Parties"). The Parties and their counsel have approved the proposed Notice of Class Action Settlement ("Notice Packet"), which is attached to the Settlement Agreement as "Exhibit A" and respectfully request that the Court approve it as well. The Parties have also drafted and agreed to the form and content of the proposed Second Amended Class Action Complaint for Damages and Enforcement under the Private Attorneys General Act, Cal. Labor Code § 2698, Et Seq. ("Second Amended Complaint"), which is attached as "EXHIBIT 1" to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement, filed concurrently herewith. As part of the Settlement, the Parties agreed to amend the complaint to assert, in addition to the claims asserted in the Class Action Complaint for Damages ("Original Complaint"), a cause of action for violation of PAGA (Labor Code section 2698 *et seq.*) on behalf of Plaintiff and aggrieved employees, for the purposes of resolution of the Action. Class Counsel respectfully requests that the Court grant leave to file the Second Amended Complaint so that the terms of the Settlement Agreement and the intent of the Parties may be effectuated.

9. Based on information provided by Defendant, as of June 30, 2020, the Class is estimated to consist of approximately three hundred twenty-nine (329) individuals.

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1 10. The effectiveness of Lawyers *for* Justice, PC (“Class Counsel”) in prosecuting this
2 matter has translated into tangible monetary benefits for the Class Members in the following
3 respects: (1) Class Members recover over a reasonably short period of time as opposed to waiting
4 additional years for the same, or possibly worse, result; (2) a guaranteed result that compares
5 favorably with other similar class action settlements of this type given the strengths and
6 weaknesses of the case; and (3) significant savings in Class Counsel’s fees and/or costs that would
7 have only increased significantly had the case progressed through certification, trial, and/or
8 appeals.

9 11. Class Counsel has litigated the Action for close to three years, and was actively
10 preparing the matter for class certification and trial. The Parties have engaged in extensive
11 settlement negotiations and participated in a formal, full-day mediation session and two half-day
12 mediation sessions conducted by David Rotman, Esq., a well-respected mediator experienced in
13 mediating complex labor and employment matters. Prior to and during the mediation and
14 settlement discussions, the Parties exchanged class information and engaged in an extensive
15 discussion regarding their evaluations of the case and various aspects of the case, including but
16 not limited to, the risks and delays of further litigation, the risks to the Parties of proceeding with
17 class certification and/or representative adjudication, the law relating to off-the-clock theory, meal
18 and rest periods, PAGA representative actions, and wage-and-hour enforcement, as well as the
19 evidence produced and analyzed, and the possibility of appeals, among other things. During all
20 settlement discussions, the Parties conducted their negotiations at arm’s length in an adversarial
21 position. Arriving at a settlement that was acceptable to all Parties was not easy. Defendant and
22 their counsel felt strongly about their ability to prevail on the merits and at certification, and
23 Plaintiff and Class Counsel believed that they would be able to obtain class certification and
24 prevail at trial. After conducting investigations, formal and informal discovery, and exchange of
25 information, extensive settlement negotiations, and with the aid of the mediator’s evaluations, the
26 Parties have agreed that the matter is well-suited for settlement given the legal issues relating to
27 Plaintiff’s principal claims, as well as the costs and risks to both sides that would attend further
28 litigation. The Settlement is a fair, reasonable, and adequate resolution of the Released Claims of

1 Plaintiff and Participating Class Members against the Released Parties.

2 12. The Parties used the pre-mediation time to investigate the veracity, strength, and
3 scope of the claims, and Class Counsel was preparing the Action for class certification and trial.
4 Prior to engaging in mediation, Plaintiff conducted significant investigation and formal and
5 informal discovery regarding the facts of the case, including and not limited to, the exchange,
6 review, and analysis of thousands of pages of documents and data obtained from Defendant and
7 other sources. Class Counsel propounded multiple sets of formal written discovery requests on
8 Defendant, reviewed Defendant's responses and supplemental responses thereto, prepared for and
9 took the deposition of Defendant's Person Most Knowledgeable designee as well as defended the
10 deposition of Plaintiff, and worked with Plaintiff to provide responses to multiple sets of discovery
11 requests that were propounded by Defendant. The volume of data and documents that Class
12 Counsel reviewed and analyzed included and was not limited to: employment records of Plaintiff
13 and other Class members, a detailed sampling of Class Members' time and pay data, multiple
14 iterations of Defendant's employee handbooks, The Shellpoint Family of Companies Employee
15 Handbook and the California Addendum to the Shellpoint Family of Companies Employee
16 Handbook, various acknowledgements (including, but not limited to, Defendant's
17 Acknowledgment of Receipt of Employee Handbook and Code of Conduct acknowledgement)
18 and agreements (including, but not limited to, Defendant's Position Description Acknowledgment
19 & Agreement and Confidentiality and Non-Solicitation Agreement), internal memoranda, job
20 descriptions, checklists (including, but not limited to, Defendant's Employee Separation
21 Checklist), Defendant's operations and employment practices, forms (including, but not limited
22 to, Defendant's Compensation and Hours form, Recommendation for Termination form, and
23 Separation from Employment form), procedures (including, but not limited to, Defendant's
24 Timekeeping Process and Recording Time Worked procedures), and policies (including, but not
25 limited to, Defendant's Cell Phone policy, Overtime policy, Working Hours policy, Attendance
26 policy, detailed Business Casual Attire dress policy, Travel & Expense Reimbursement policy,
27 Meal & Rest policies, Wage And Salary policy, and Payment Upon Termination policy), among
28 other information and documents. Class Counsel interviewed Plaintiff and other Class Members

1 to gather facts and to identify potential witnesses. Counsel for the Parties also met and conferred
2 on numerous occasions, e.g., to discuss issues relating to the pleadings, discovery, and the
3 production of documents and data prior to the mediation. Class Counsel also drafted pleadings
4 and three mediation briefs for Plaintiff, and prepared for and attended three mediation sessions
5 and settlement negotiations, among other tasks.

6 13. Counsel for the Parties have also invested time researching and investigating the
7 applicable law, which is constantly evolving as it relates to certification, representative PAGA
8 claims, off-the-clock theory, meal and rest periods, wage-and-hour enforcement, Plaintiff's claims
9 and damages, and Defendant's defenses thereto, as well as facts discovered. Based on our analysis,
10 I submit that the result achieved in this litigation is fair, adequate, and reasonable.

11 14. The Settlement provides for a Gross Settlement Fund of three million dollars and no
12 cents (\$3,000,000.00). The Net Settlement Fund is the Gross Settlement Fund less the following
13 amounts subject to approval by the Court: Attorney's Fees and Costs Payment to Class Counsel,
14 Service Payment to Plaintiff, Administration Costs to the Administrator, and LWDA Payment to
15 the Labor and Workforce Development Agency ("LWDA"). Assuming that the amounts allocated
16 under the Settlement toward these payments are awarded by the Court, the Net Settlement Fund is
17 currently estimated to be one million five hundred sixty-two thousand five hundred dollars
18 (\$1,562,500.00). The Gross Settlement Fund will be distributed in accordance with the terms of
19 the Settlement and there is no reversion to Defendant.

20 15. The Parties have agreed to retain Simpluris, Inc. ("Simpluris" or "Administrator")
21 to handle the notice and settlement administration. The Parties respectfully request that the Court
22 appoint Simpluris to handle these procedures and serve as the Administrator. Defendant will
23 provide Simpluris with a list of Class Members ("Class List and Data") that Defendant will
24 compile from its records, which will include each Class Member's full name; most recently known
25 mailing address; job title(s); telephone number(s); Social Security Number; and dates of
26 employment from which the Administrator can calculate the total number of Qualifying
27 Workweeks from the period beginning May 25, 2014 and ending on the date that Preliminary
28 Approval of the Settlement is granted. Simpluris will calculate each Settlement Class Member's

1 estimated *pro rata* share of the Net Settlement Fund (“Individual Settlement Share”). Simpluris
2 will also receive Requests for Exclusion and Objections from Class Members; calculate and
3 resolve disputes regarding the number Qualified Workweeks worked by Class Members; provide
4 necessary reports and declarations; calculate, subtract, and transmit Withholding and Taxes; issue
5 tax forms, as applicable, and report necessary taxes; issue and transmit all payments provided for
6 by the Settlement, including and not limited to, mailing Individual Settlement Payment checks to
7 the Participating Class Members; and perform any other usual and customary duties for
8 administering a class action settlement. Administration Costs are currently estimated not to exceed
9 ten thousand dollars (\$10,000.00) and will be paid out of the Gross Settlement Fund, subject to
10 approval of the Court.

11 16. Based on investigation and information discovered, Class Counsel believes that
12 there is sufficient evidence to support the allegations made in the lawsuit, including the allegations
13 that Defendant, with respect to Plaintiff and the Class Members, *inter alia*, failed to properly pay
14 overtime and minimum wages and associated premium pay, failed to provide compliant meal and
15 rest periods and to pay associated premium pay, failed to timely pay wages during employment
16 and upon termination of employment, failed to provide compliant wage statements, failed to
17 maintain requisite payroll records, and failed to reimburse necessary business expenses, and
18 thereby engaged in unfair business practices and conduct giving rise to penalties recoverable under
19 the Private Attorneys General Act of 2004 (California Labor Code sections 2698, *et seq.*). Plaintiff
20 also asserted that Class Members were expected to perform similar job duties and were subject to
21 the same or similar operations and employment policies, practices, and procedures. Additionally,
22 Plaintiff asserted that Defendant’s recordkeeping practices with respect to Plaintiff and the Class
23 Members were substantially the same during the time period at issue. As a result, Plaintiff claims
24 that the Class Members, were uniformly not paid all of the compensation that was owed to them
25 by Defendant since May 25, 2014. Thus, in Class Counsel’s view, it is clear that the outcome of
26 this litigation would be determined by Defendant’s uniform operations and employment practices,
27 policies, and procedures that Plaintiff alleges applied across their hourly-paid or non-exempt
28 employees in California during the Class Period.

1 17. Class Counsel is aware of the defenses and position of Defendant, but believes that
2 Plaintiff could potentially obtain class certification despite many obstacles. Plaintiff has also taken
3 into account the uncertainty and risk of the outcome of further litigation, and the difficulties and
4 delays inherent in such litigation, including those involved in class certification and/or
5 representative adjudication. Plaintiff further recognizes the burdens of proof necessary to establish
6 liability for the claims asserted in the Action, Defendant's defenses, and the difficulties in
7 establishing entitlement to monetary recovery. Plaintiff has also considered the Parties' settlement
8 discussions, as well as the evaluations of the mediator, who is experienced and well-regarded in
9 complex labor and employment matters.

10 18. Defendant, on the other hand, denied and continue to deny any liability and
11 wrongdoing of any kind associated with the claims alleged in the Action, and further denies that
12 the lawsuit is appropriate for class treatment or representative adjudication for any purpose other
13 than this Settlement. Defendant believes that it would ultimately succeed in the matter. Both sides
14 have also had the opportunity to interview witnesses and review documents and information
15 relating to Plaintiff's and Class Members' employment with Defendant, and Defendant's
16 operations and employment policies, practices, and procedures. The Parties also reviewed and
17 analyzed thousands of pages of documents and data, including but not limited to a detailed
18 sampling of Class Members' time and pay information, to determine the potential value and
19 strength of the claims. The available information enabled Class Counsel to estimate the potential
20 claims of the Class and prepare damages/valuation models. Accordingly, the Parties have
21 conducted adequate investigation and discovery to be sufficiently informed of the nature and
22 extent of the Class Members' claims, and to enable both sides to fully evaluate the Settlement for
23 its fairness, adequacy, and reasonableness. The Parties have agreed that the matter is well-suited
24 for settlement given the legal issues relating to Plaintiff's principal claims, as well as the costs and
25 risks to both sides that would attend further litigation. The Settlement takes into account the
26 strengths and weaknesses of each side's position and the uncertainty of how the case might have
27 concluded at certification, trial, and/or appeals.

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7 20. The Settlement Agreement provides for payment in an amount not to exceed fifteen
8 thousand dollars (\$15,000.00) to Plaintiff as a Service Payment, to be paid out of the Gross
9 Settlement Fund subject to approval by the Court. Plaintiff spent considerable time and effort to
10 produce relevant documents and past employment records and to provide the facts and evidence
11 necessary to attempt to prove the allegations. Plaintiff was available whenever Class Counsel
12 needed him and actively tried to obtain information that would benefit the Class. For example,
13 Plaintiff reviewed and responded to formal written discovery, prepared for and attended a full-day
14 of deposition, and reviewed his transcript thereafter. Accordingly, it is appropriate and just for
15 Plaintiff to receive a reasonable Service Payment, in addition to his Individual Settlement
16 Payment, for his services on behalf of the Class.

21. Class Counsel submits that the Settlement is fair, reasonable, and adequate, and is in the best interest of the Class. Class Counsel further submits that the Settlement is within an acceptable range of recovery for this type of litigation given the strengths and weaknesses of the case, the inherent costs and risks of further litigation, and the costs and risks associated with class certification, representative adjudication, trial, and/or appeals.

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

24 Executed on this 11th day of February 2021, at Glendale, California.

25 
26 Edwin Aiwanian

EXHIBIT 1

Edwin Aiwazian (SBN 232943)
Arby Aiwazian (SBN 269827)
Joanna Ghosh (SBN 272479)
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Attorneys for Defendant

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

MARCO RODRIGUEZ, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

vs.

NEW PENN FINANCIAL, LLC, a Delaware
corporation; and DOES 1 through 100,
inclusive,

Defendant.

Case No.: 34-2018-00233729

Honorable Richard K. Sueyoshi
Department 40

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

Complaint Filed:	May 25, 2018
FAC Filed:	September 26, 2018
Jury Trial Date:	None Set

1 Plaintiff Marco Rodriguez, individually and on behalf of all similarly situated current and
2 former employees (“Plaintiff”), and Defendant NewRez LLC (formerly known as “New Penn
3 Financial, LLC”) (“Defendant”) (collectively, the “Parties”), subject to the terms and conditions
4 hereof and final approval by the Court, hereby enter into this Joint Stipulation of Class Action
5 and PAGA Settlement and Release (“Agreement”).

6 IT IS HEREBY STIPULATED AND AGREED by and among Plaintiff, for himself and
7 the Class, and Defendant, by and through their respective attorneys, that subject to final Court
8 approval, the Action will be finally, fully, and forever compromised, released, resolved,
9 discharged, and settled, and will be dismissed with prejudice as to Defendant, subject to the
10 terms and conditions set forth in this Agreement.

11 **I. RECITALS**

12 **A. Background and Procedural History**

13 1.1 On May 25, 2018, Plaintiff filed a Class Action Complaint for Damages against
14 Defendant in the Superior Court of Sacramento County, entitled *Marco Rodriguez v. New Penn*
15 *Financial, LLC*, and Does 1 through 100, Case No. 34-2018-00233-729. On September 26, 2018
16 Plaintiff filed a First Amended Class Action Complaint for Damages (“FAC”).

17 1.2 The Action alleges overtime, unpaid minimum wages, meal-period violations,
18 rest-break violations, unpaid expenses, various penalties, and other related claims on behalf of
19 “all current and former hourly-paid or non-exempt employees who worked for any of the
20 Defendants within the State of California at any time during the period from May 25, 2014 to
21 final judgment.”

22 1.3 Plaintiff raised allegations during the course of the litigation, including, but not
23 limited to, alleged failure to include commission, bonus, and/or incentive pay in the regular rate
24 of pay for overtime purposes; multiple bases for Labor Code Section 203 penalties (including
25 failing to identify the hours and rate of pay for commission, bonus, and/or incentive-related
26 overtime); and alleged failure to pay penalties, including and not limited to, those recovery under
27 the Private Attorneys General Act (“PAGA”).

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1 1.4 Plaintiff will file a Second Amended Complaint for Damages and Enforcement
2 Under the Private Attorneys General Act, Cal. Lab. Code § 2698 Et Seq., (“Second Amended
3 Complaint”) to include all such allegations for purposes of this settlement.

4 1.5 The Parties participated in approximately three days of arm’s-length and informed
5 negotiations with Mediator David Rotman on March 17, 2020, June 30, 2020, and August 10,
6 2020. The third mediation resulted in a mediator’s proposal for class-wide resolution and the
7 Parties eventually accepted the mediator’s proposal on August 14, 2020.

8 1.6 The Parties and their counsel are sufficiently familiar with the facts of this case
9 and the applicable laws to make an informed judgment as to the fairness of the Settlement, the
10 respective strengths and weaknesses of the claims, the certifiability of the class Plaintiff sought
11 to certify, and the risks of proceeding in litigation. The Parties are represented by competent
12 counsel and have had the opportunity to consult with counsel prior to the signing this Agreement.

13 **B. Parties’ Statements and Recognition of the Benefits of the Settlement**

14 1.7 Class Counsel has conducted extensive investigation into the facts of the Action,
15 including formal written discovery, deposition of Plaintiff and Defendant’s Person Most
16 Qualified witness, pre-mediation informal disclosures, and other investigation undertaken by
17 Class Counsel. The Parties also engaged in extensive negotiations and the exchange of data,
18 documents, and information. Based on a thorough investigation and evaluation of this matter,
19 Class Counsel and Plaintiff have concluded that this proposed Settlement with Defendant for the
20 consideration and on the terms set forth in this Agreement, is fair, reasonable, and adequate and
21 is in the best interest of the Class in light of all known facts and circumstances, including the risk
22 of significant delay, defenses and contentions against liability asserted by Defendant, and
23 numerous potential appellate issues.

24 1.8 Defendant denies each and all of the claims alleged by Plaintiff in the Action,
25 including the claims that will be alleged in the Second Amended Complaint, as noted in Section
26 1.4, *supra*. Defendant expressly denies any and all charges of wrongdoing or liability arising out
27 of any of the acts, omissions, facts, matters, transactions, or occurrences alleged, or that could
28 have been alleged, in the Action. Nevertheless, Defendant has taken into account the uncertainty

1 and risks inherent in any litigation and has likewise concluded that further litigation would be
2 protracted and expensive. Defendant, therefore, has determined that it is desirable and beneficial
3 that the Action be settled in the manner and upon the terms and conditions set forth in this
4 Agreement. Neither this Agreement, nor any document referred to or contemplated herein, nor
5 any action taken to carry out this Agreement, is, may be construed as, or may be used as an
6 admission, concession, or indication by or against Defendant of any fault, wrongdoing or liability
7 whatsoever.

8 1.9 For the purposes of this Agreement only, the Parties agree to certification of the
9 Class, to include all Class Members.

10 **II. DEFINITIONS**

11 As used in this Agreement, the following terms shall have the meanings specified below:

12 2.1 “Agreement,” “Settlement,” or “Settlement Agreement” means this Joint
13 Stipulation of Class Action and PAGA Settlement and Release and all actions taken pursuant to
14 and in furtherance of this Agreement.

15 2.2 “Administrator” means Simpluris, Inc. (“Simpluris”) or such other administrator
16 as may be approved by the Court, which shall be responsible for administering the Settlement
17 pursuant to the terms of the Agreement, the Preliminary Approval Order, and the Final Approval
18 Order and Judgment. The Administration Costs shall be paid out of the Gross Settlement Fund,
19 as approved by the Court.

20 2.3 “Administration Costs” means the amount approved by the Court to be paid to the
21 Administrator to perform the Administration Duties as described herein and in Section 4.4
22 below. It is estimated that the Administration Costs will not exceed Ten Thousand Dollars
23 (\$10,000).

24 2.4 “Attorneys’ Fees and Costs Payment” or “Attorneys’ Fees and Costs Award”
25 shall mean the amount of attorneys’ fees, expenses, and costs to prosecute the Action to be paid
26 to Class Counsel out of the Gross Settlement Fund, as approved by the Court.

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1 2.5 “Action” shall mean above-captioned action: *Marco Rodriguez v. New Penn*
2 *Financial, LLC*, and Does 1 through 100, Case No. 34-2018-00233-729, including the claims
3 alleged in the Class Action Complaint for Damages, First Amended Complaint for Damages, and
4 Second Amended Complaint.

5 2.6 “Class Counsel” shall mean the attorneys representing Plaintiff and the Class in
6 the Action: Edwin Aiwarzian, Arby Aiwarzian, and Joanna Ghosh of Lawyers *for* Justice, PC.

7 2.7 “Class List and Data” shall mean the information Defendant shall provide
8 following Preliminary Approval for purpose of providing notice of the Settlement to the Class.

9 2.8 “Class” or “Class Members” shall mean all current and former hourly-paid or
10 non-exempt employees who worked for Defendant within the State of California at any time
11 during the period from May 25, 2014 to the date of Preliminary Approval of the Agreement.

12 2.9 “Class Period” shall mean the period beginning May 25, 2014 and ending on the
13 date that Preliminary Approval of the Settlement is granted.

14 2.10 “Complaints” shall mean the Class Action Complaint for Damages, First
15 Amended Complaint for Damages, and Second Amended Complaint filed in the Action.

16 2.11 “Defendant” or “Defendants” shall mean NewRez LLC formerly known as “New
17 Penn Financial, LLC.”

18 2.12 “Defense Counsel” shall mean the attorneys representing Defendant: Delia A.
19 Isvoranu of Duane Morris LLP.

20 2.13 “Effective Date” means the date by which this Settlement is finally approved as
21 provided herein and the Court’s Final Approval Order and Judgment becomes binding. For
22 purposes of this Agreement, the Final Approval Order and Judgment becomes binding: (1) if
23 there are no objections to the Settlement, then the date of final approval of the Settlement by the
24 Court; (2) if there are objections to the Settlement, then the later of (a) the day after the deadline
25 by which a notice of appeal to the California Court of Appeal of the Final Approval Order
26 Judgment and/or of an order rejecting any motion to intervene may be timely filed, and none is
27 filed; (b) if such an appeal is filed, and the appeal is finally disposed of by ruling, dismissal,
28 denial or otherwise, the day after the deadline for filing a request for further review of the Court

1 of Appeal's decision passes and no further review is requested; (c) if an appeal is filed and there
2 is a final disposition by ruling, dismissal, denial, or otherwise by the Court of Appeal and further
3 review of the Court of Appeal's decision is requested, the day after the request for review is
4 denied with prejudice and/or no further review of the decision can be requested, or (d) if review
5 is accepted, the day after the California Supreme Court affirms the Settlement. The Effective
6 Date cannot occur until and unless final approval of the Settlement occurs with no objections to
7 the Settlement or, if there are any objections, then after there is no possibility of an appeal or
8 further appeal that could potentially prevent this Agreement from becoming final and binding.
9 The occurrence of the Effective Date is a prerequisite to any distributions from the Settlement
10 Fund.

11 2.14 "Final Fairness" or "Final Approval Hearing" means the hearing to be conducted
12 by the Court, or any other Court taking jurisdiction of this matter, to determine whether to finally
13 approve the Settlement.

14 2.15 "Gross Settlement Fund" or "GSF" means the non-reversionary sum of Three
15 Million Dollars (\$3,000,000) which is the total and maximum amount Defendant will be required
16 to pay under this Agreement. The GSF will include the payments to: (i) all Participating Class
17 Members, as described herein; (ii) the LWDA Payment; (iii) Service Payment to the Plaintiff/
18 Class Representative, as described herein; (iv) Attorneys' Fees and Costs Award to Class
19 Counsel, as described herein; (v) Administration Costs to the Administrator, as described herein,
20 and (vi) employee's and employer's share of any and all withholdings and taxes (including but
21 not limited to, FICA, FUTA and SDI contributions) with respect to the wages portion of
22 Individual Settlement Shares. Except as provided in Section 4.18 of this Agreement, in no other
23 event shall Defendant have any duty or obligation to pay more than the Gross Settlement Fund.

24 2.16 "Individual Settlement Payment" shall mean the payment for the proportionate
25 share of the NSF to be issued to a Participating Class Member based upon the formula set forth
26 below in Section 4.16 of this Agreement, after reduction for employee's and employer's share of
27 withholdings and taxes with respect to the wages portion of Individual Settlement Shares.

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1 2.17 “LWDA Payment” means the payment to the Labor and Workforce Development
2 Agency (“LWDA”) for its 75% portion of the PAGA Payment.

3 2.18 “Net Settlement Fund” or “NSF” means the Gross Settlement Fund less Court-
4 approved (i) LWDA Payment; (ii) Service Payment to the Plaintiff/ Class Representative; (iii)
5 Attorneys’ Fees and Costs Award to Class Counsel; and (iv) Administration Costs to the
6 Administrator. To the extent the Court does not approve the full amount of the LWDA Payment
7 or the requested Attorneys’ Fees and Costs, Administration Costs, or the Service Payment, the
8 Net Settlement Fund will increase accordingly.

9 2.19 “Notice Packet” refers to the documents mailed to the Class Members pursuant to
10 the terms of this Agreement, and includes the Court-approved Notice of Class Action Settlement
11 attached hereto as “**Exhibit A.**”

12 2.20 “Notice Response Deadline” means thirty-five (35) calendar days from the date of
13 the initial mailing of the Notice Packet, or such other date as set by the Court in the Preliminary
14 Approval Order.

15 2.21 “PAGA Payment” means the amount to be paid to settle the claims for penalties
16 under the California Labor Code Private Attorneys General Act (“PAGA”), California Labor
17 Code §§ 2698 *et seq.*

18 2.22 “Participating Class Member” means any Class Member who has not, by the
19 Notice Response Deadline, postmarked a Request for Exclusion. Each Participating Class
20 Member will be issued an Individual Settlement Payment without the need to return a claim
21 form.

22 2.23 “Plaintiff” and “Class Representative” shall mean Marco Rodriguez.

23 2.24 “Preliminary Approval” and “Preliminary Approval Order” means the order
24 preliminarily approving this Settlement, which shall, among other things, preliminarily find the
25 Settlement to be fair, reasonable, and adequate; approve Simpluris, Inc. as the Administrator;
26 approve the content and distribution of the Notice Packet to the Class Members; and set the date
27 for the Final Approval Hearing, among other things, as contemplated in Section 4.1 of this
28 Agreement.

1 2.25 “Qualifying Workweek” shall mean the actual weeks worked during the Class
2 Period by a Class Member.

3 2.26 “Released Claims” means all claims for wages, premiums, reimbursement of
4 expenses, meal-period violations, rest-break violations, alleged failure to include commission,
5 bonus, and/or incentive pay in the regular rate of pay for overtime purposes, inaccurate/
6 incomplete wage statements, various penalties, and other related claims, penalties, and interest
7 actually alleged or that could have been alleged in the Action by the Plaintiff, on behalf of
8 himself, the Class Members, similarly situated employees, and the aggrieved employees, based
9 on the facts alleged in the Complaints, allegedly occurring during the Class Period, including but
10 not limited to: (1) failure to provide meal periods, compensation in lieu thereof, and/or failure to
11 pay premium pay for missed, late, and/or short meal periods in violation of California Labor
12 Code §§ 226.7 and 512, the applicable Industrial Welfare Commission Wage Order, or
13 California Business & Professions Code § 17200 *et seq.*; (2) failure to provide rest breaks,
14 compensation in lieu thereof, and/or failure to pay premium pay for missed, late, and/or short rest
15 breaks in violation of California Labor Code § 226.7, the applicable Industrial Welfare
16 Commission Wage Order, or California Business & Professions Code § 17200 *et seq.*; (3) failure
17 to pay wages for all hours worked, failure to pay overtime wages, and failure to calculate and
18 pay the regular rate of pay/overtime rate on commission, bonus, and/or incentive pay in the
19 violation of California Labor Code §§ 510, 1194, 1194.2, 1197, 1197.1, & 1198, the applicable
20 Industrial Welfare Commission Wage Order, or California Business & Professions Code § 17200
21 *et seq.*; (4) failure to provide reimbursement for business expenses in violation of California
22 Labor Code §§ 2800 and 2802, the applicable Industrial Welfare Commission Wage Order, or
23 California Business & Professions Code § 17200 *et seq.*; (5) failure to provide accurate,
24 complete, and itemized wage statements in violation of California Labor Code § 226, or
25 California Business & Professions Code § 17200 *et seq.*; (6) failure to pay penalties under
26 California Labor Code §§ 201, 202, 203, and 204, and California Business & Professions Code
27 § 17200 *et seq.*; (7) failure to keep accurate payroll/wage records pursuant to Labor Code
28 § 1174(d); (8) civil penalties under PAGA, California Labor Code § 2698 *et seq.*, for the alleged

1 California Labor Code violations that were or that could reasonably have been alleged in the
2 Action based on the facts stated in the Complaints; (9) that Defendant is liable for the attorneys'
3 fees and costs incurred to prosecute this Action on behalf of Class Members, including fees and
4 costs incurred for the services of Class Counsel; and (10) that Defendant is liable for any other
5 remedies, penalties or interest under California law, including the applicable Industrial Welfare
6 Commission ("IWC") Wage Order(s), based on the facts alleged in the Complaints. "Released
7 Claims" also includes all claims that Plaintiff and/or the Class Members may have against the
8 Released Parties relating to (i) the payment, taxation and allocation of attorneys' fees and costs
9 to Class Counsel pursuant to this Agreement, (ii) the payment, taxation and allocation of
10 Plaintiff's Service Award pursuant to this Agreement, and (iii) the payment, taxation, and
11 allocation of penalties under the PAGA.

12 2.27 "Released Parties" shall mean NewRez LLC formerly known as "New Penn
13 Financial, LLC," and all its/their past and present successors, predecessors, subsidiaries, parents,
14 holding companies, sister and affiliated companies, divisions and other related entities,
15 shareholders, subsidiaries, investors, officers, directors, partners, assigns, agents, employees,
16 principals, heirs, administrators, attorneys, vendors, accountants, auditors, consultants,
17 fiduciaries, insurers, reinsurers, employee benefit plans, and representatives of each of them,
18 both individually and in their official capacities, past or present, as well as all persons acting by,
19 though, under or in concert with any of these persons or entities.

20 2.28 "Request(s) for Exclusion" means a written request made by a Class Member to
21 the Administrator seeking to be excluded from the Settlement, in the manner set forth in Sections
22 4.8-4.12.

23 2.29 "Service Payment" means a payment, as approved by the Court, to Plaintiff/Class
24 Representative Marco Rodriguez in the sum of \$15,000.00, in consideration of his efforts to
25 initiate and prosecute the Action, work performed, execution of a general release of all claims he
26 may have against Defendant as more particularly described in Sections 5.4 and 5.5. Defendant
27 will not oppose the Service Payment request in this amount. Plaintiff will be issued an Internal
28 Revenue Service Form 1099 by the Administrator for any Service Payment. The Plaintiff/Class

1 Representative agrees he is solely responsible for the tax consequences of the Service Payment,
2 if any. In the event that the Court (or any appellate court) awards less than the amount requested
3 for the Service Payment, only the awarded amount shall be paid and shall constitute satisfaction
4 of those obligations and full payment thereunder, and any unawarded portion of the requested
5 Service Payment shall be made a part of the NSF for distribution to Participating Class Members.
6 Service Payment to Plaintiff is in addition to the Individual Settlement Payment he will receive
7 as a Participating Class Member under the terms of this Settlement.

8 2.30 “Withholdings and Taxes” means all withholdings from the Individual Settlement
9 Payments required by law plus all federal, state, and local employment payroll taxes due in
10 regard to the Individual Settlement Shares, whether owed by a Participating Class Member or by
11 Defendant (including but not limited to, FICA, FUTA and SDI contributions), as computed by
12 the Administrator in accordance with Section 4.16.

13 **III. SETTLEMENT TERMS**

14 3.1 **Payment of GSF by Defendant.** In full settlement of the Released Claims and
15 following the Effective Date, Defendant shall deliver the Gross Settlement Fund (GSF) to the
16 Administrator in accordance with the timeline set forth in Section 4.26, below. The GSF shall
17 consist of the following amounts, the aggregate of which shall not exceed the Gross Settlement
18 Fund: (a) the Individual Settlement Payments, (b) the Attorneys’ Fees and Costs Payment, (c) the
19 LWDA Payment, (d) Service Payment, (e) Withholdings and Taxes, and (e) the Administration
20 Costs.

21 3.2 **Attorneys’ Fees and Costs Payment/Award.** Class Counsel may request an
22 award of attorneys’ fees in the amount of thirty-eight percent (38%) of the Gross Settlement
23 Fund and reimbursement of litigation costs and expenses in the amount of up to \$85,000
24 (“Attorneys’ Fees and Costs”) from the Court to compensate Class Counsel for fees and costs
25 incurred for work already performed in the Action, and the work remaining to be performed in
26 documenting the Settlement, securing Court approval of the Agreement, administering the
27 Settlement, responding to any potential objections and/or disputes, and defending against any
28 appeals, as well as all associated expenses. The amount of fees and costs awarded to Class

1 Counsel shall be left to the discretion of the Court. Defendant will not oppose a reasonable
2 request for necessary attorneys' fees and costs.

3 3.3 Class Counsel will submit an application for Attorneys' Fees and Costs to the
4 Court for approval prior to the date of the Final Approval Hearing. The Parties agree that, over
5 and above the total amount of the Court-approved Attorneys' Fees and Costs awarded, each
6 Party, including all persons eligible to be Class Members, shall bear their own attorneys' fees
7 and costs relative to the investigation, filing, prosecution or settlement of the Action, the
8 negotiation, execution, or implementation of this Agreement, and/or the process of obtaining,
9 administering or challenging a Preliminary Approval Order and/or Final Approval Order.

10 3.4 In the event that the Court denies, modifies, or reduces Class Counsel's request
11 for Attorneys' Fees and Costs, then Plaintiff, Class Counsel, and the Participating Class
12 Members may not seek to modify, revoke, cancel, terminate, or void this Agreement and will not
13 seek, request, or demand an increase in the Settlement Amount.

14 3.5 If Class Counsel appeal the Court's ruling on their request for Attorneys' Fees
15 and Costs, any ruling of any appellate court in such an appeal (regardless of its substance) shall
16 not constitute a material alteration of this Agreement, and shall not give Plaintiff, Class Counsel,
17 or the Participating Class Members the right to modify, revoke, cancel, terminate, or void this
18 Agreement.

19 3.6 All claims for attorneys' fees and/or costs that Class Counsel, Plaintiff, and the
20 Participating Class Members may possess against Defendant have been compromised and
21 resolved in this Agreement and shall not be affected by any appeal that Class Counsel may file.

22 3.7 The Attorneys' Fees and Costs payment shall represent payment for all claims for
23 Class Counsel's attorneys' fees and costs, past and future, incurred in the Action. The Attorneys'
24 Fees and Costs Payment shall be paid from the GSF, and Defendant shall not otherwise be
25 required to pay for any portion of Plaintiff's or the Class Members' attorneys' fees or costs. The
26 Attorneys' Fees and Costs Payment shall be paid to Class Counsel from the GSF following the
27 Effective Date, in accordance with Section 4.27, below. With respect to the Attorneys' Fees and
28 Costs to Class Counsel, the Administrator may, at the request of Class Counsel, purchase

annuities to utilize United States Treasuries and bonds or other attorney fee deferral vehicles, for the Attorneys' Fees and Costs. Defendant takes no position on Class Counsel's fee-deferral, if any.

3.8 **Service Payment to Plaintiff/Class Representative.** Defendant agrees not to oppose a Service Payment to Plaintiff in an amount not to exceed \$15,000.00 for his service in bringing and prosecuting the Action. The Service Payment shall be paid to Plaintiff from the GSF following the Effective Date, in accordance with Section 4.27, below.

3.9 **PAGA Payment.** The Parties agree to seek approval from the Court for a payment of \$250,000.00 for resolution of the PAGA claims alleged in the Action. The Parties agree that \$187,500 (75%) of the PAGA Payment shall be paid to the LWDA ("LWDA Payment") and \$62,500.00 (25%) of the PAGA Payment shall remain part of the Net Settlement Fund to be paid to the Participating Class Members. The PAGA Payment shall be paid to the LWDA from the GSF following the Effective Date, in accordance with Section 4.27, below.

IV. CLASS SETTLEMENT PROCEDURES

4.1. **Preliminary Approval.** As soon as practicable after execution of this Agreement, Plaintiff shall apply for Preliminary Approval of the Settlement. Plaintiff's application shall request the Court to:

4.1.1 For purposes of Settlement only, conditionally certify the Class based on the allegations in the Second Amended Complaint, preliminarily appoint Plaintiff and representative of the Class, and preliminarily appoint Edwin Aiwazian, Arby Aiwazian, and Joanna Ghosh as counsel for the Class;

4.1.2 Preliminarily approve this Agreement as fair, reasonable, and adequate;

4.1.3 Preliminarily approve the Notice of Class Action Settlement attached as **Exhibit A**;

4.1.4 Preliminarily approve Simpluris, Inc. as the Administrator;

4.1.5 Set deadlines for the Administrator to provide the Notice to the Class, and for Class Members to request exclusion or object to the Settlement;

4.1.6 Set the date and time for the Final Fairness/Approval Hearing; and

1 4.1.7 Stay all other proceedings in the Action until Final Approval.

2 4.2 **Class Notice.** Subject to court approval, the Parties agree that the Administrator
3 shall provide notice to the Class pursuant to the following procedures:

4 4.3 **Class List and Data.** Within twenty-one (21) days following entry of the
5 Preliminary Approval Order, Defendant will produce the Class List and Data to Class Counsel
6 (in redacted format to remove personally identifiable information such as name, address,
7 telephone numbers, and Social Security Numbers) and to the Administrator in a readable
8 Microsoft Excel Spreadsheet which shall include for each Class Member: (1) full name; (2) most
9 recently known mailing address; (3) job title(s); (4) telephone number(s); (5) Social Security
10 Number; and (6) dates of employment from which the Administrator can calculate the total
11 number of Qualifying Workweeks.

12 4.4 **Administrator Duties.** The Administrator's duties shall include, among others:
13 (i) creating a Qualified Settlement Fund, (ii) printing and mailing the Notice Packet to the Class
14 as directed by the Court, and establishing a website domain to host the relevant settlement
15 documents; (iii) taking all steps reasonably necessary to ensure Class Members timely receive
16 the Notice Packet; (iv) calculating the number of Qualifying Workweeks worked by Class
17 Members, including resolving any disputes by Class Members about the number of Qualifying
18 Workweeks they worked during the Class Period; (v) taking receipt of and safeguarding the
19 Gross Settlement Fund; (vi) calculating and distributing Individual Settlement Payments, the
20 LWDA Payment, the Service Payment, and the Attorneys' Fees and Costs Payment, provided
21 such amounts are approved by the Court; (vii) calculating and paying Withholdings and Taxes;
22 (viii) issuing IRS Forms W2 and 1099, as applicable, and reporting all Individual Settlement
23 Payments, Service Payment, and the Attorneys' Fee and Costs Payment; and (ix) forwarding
24 sums represented by uncashed checks to the Unclaimed Property Division of the California State
25 Controller's office with an identification of each Participating Class Member and the amount
26 attributable to each Participating Class Member, together with such other tasks as the Parties
27 may mutually request and agree upon, or the Court may order, the Administrator to perform.

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1 4.5 The Administrator shall create and maintain a website, which will include the
2 Class Notice, Motions for Preliminary and Final Approval, and Motion for Attorneys' Fees as
3 they become available, until the Effective Date. The website shall be removed and inaccessible
4 immediately after the Effective Date.

5 4.6 The Administrator shall take all reasonable steps to ensure that (a) the highest
6 percentage of Class Members receive the Notice Packet; (b) Class Members who wish to
7 participate in the Settlement are permitted to do so consistent with this Agreement; and (c) it has
8 the most current and accurate addresses for Class Members, including, but not limited to
9 performing an initial National Change of Address database search for all Class Members who are
10 no longer employed by Defendant. In addition, the Administrator shall perform a standard
11 search, also known as "batch," "skip trace," or "credit header" searches, on all Class Members
12 whose Notice Packet is returned as undeliverable within thirty (30) calendar days of initial
13 mailing. The Administrator shall immediately re-mail all such returned or undelivered Notice
14 Packets to all updated addresses obtained through its efforts to locate the most current and
15 accurate addresses for Class Members. Should a Notice Packet associated with a currently
16 employed Class Member be returned as undeliverable within thirty (30) days of initial mailing,
17 Defendant will review its records and, if an updated address is reflected in its records, provide
18 the Administrator with an updated mailing address for re-mailing of the Notice Packet. The
19 Administrator shall also provide a website for information about the case, and a toll-free
20 telephone support and a post office box to facilitate Class Member communications; maintain
21 appropriate databases to fulfill its duties; receive, control, and account for all returned Notice
22 Packets, disputes, Requests for Exclusion and Objections; calculate the Class Members'
23 payments; and prepare and deliver reports to Class Counsel and Counsel for Defendant on a
24 weekly basis that communicate the status of the notice process, including the number of Notice
25 Packets mailed, returned, searched, and re-mailed as well as disputes, Requests for Exclusion,
26 and Objections. In addition to the duties identified above, the Administrator shall prepare final
27 declarations, reports, and invoices that accurately describe the notice process, the level of
28 participation, and actions taken to ensure the best possible notice of the Settlement was provided

1 to Class Members. The Administrator will provide notice of the final judgment by posting on the
2 website for a period of not less than sixty (60) calendar days.

3 **4.7 Mailing of Notice Packet to Class Members.** No later than fourteen (14)
4 calendar days following receipt of the information to be provided under Paragraph 4.3, above,
5 the Administrator shall mail the Notice Packet to all Class Members, via first class United States
6 mail, using the most current mailing address. Any Notice Packet returned to the Administrator
7 within thirty (30) calendar days of initial mailing with a forwarding address shall be immediately
8 re-mailed by the Administrator. The Administrator shall conduct a skip-trace address search for
9 any Class Member's Notice Packet that is returned without a forwarding address and shall, upon
10 obtaining a new or different address, immediately re-mail the Class Member's Notice Packet. It
11 shall be presumed that each and every Class Member whose Notice Packet is not returned to the
12 Administrator as undeliverable within thirty (30) calendar days after mailing has actually
13 received the Notice Packet.

14 **4.8 Requests for Exclusion/Opt Outs.** Class Members who wish to be excluded
15 from, or opt out of, the Settlement must submit to the Administrator, a written, signed request to
16 be excluded from the Settlement ("Request for Exclusion") postmarked by the Notice Response
17 Deadline.

18 **4.9 Contents of Request.** The Request for Exclusion must contain (i) the name of
19 this Action; (ii) the full name, address, telephone number, and last four digits of the Social
20 Security Number of the person requesting to be excluded; (iii) the words "Request for
21 Exclusion" at the top of the document; (iv) be personally signed by the Class Member seeking to
22 be excluded, and (v) a statement indicating their desire to be excluded, such as: "I wish to be
23 excluded from the Settlement of the Action, *Marco Rodriguez v. New Penn Financial, LLC*, and
24 Does 1 through 100, Case No. 34-2018-00233-729, currently pending in the Sacramento
25 Superior Court."

26 **4.10 Timeliness.** For purposes of determining timeliness, a Request for Exclusion shall
27 be deemed to have been submitted on the date postmarked by the U.S. Postal Service or other
28 delivery service. The Administrator shall stamp the date received on the original of any Request

1 for Exclusion it receives. Not later than ten (10) calendar days after the Notice Response
2 Deadline, the Administrator will inform Class Counsel and Counsel for Defendant of the total
3 number of Class Members who timely submitted valid Requests for Exclusion.

4 **4.11 Non-Opt Outs Bound.** Each Class Member who does not submit a valid request
5 for exclusion substantially in compliance with Paragraphs 4.9 and 4.10 by the Notice Response
6 Deadline shall be bound by the terms of this Agreement, any Court order approving the terms of
7 the Settlement, and the Final Approval Order and Judgment entered thereon.

8 **4.12 Resolution of Disputes Regarding Opt-Outs.** In the event of any issue over the
9 completeness, accuracy, timeliness, or validity of a Request for Exclusion, the Parties shall meet
10 and confer in good faith for the purpose of resolving the issue and, if the issue cannot be
11 resolved, shall submit the dispute to the Court for a final and binding determination that shall not
12 be appealable.

13 **4.13 Defendant's Right to Rescind.** If at least ten percent (10%) of the prospective
14 Class Members request exclusion, then Defendant shall have the option, in its sole discretion, to
15 nullify and rescind this Agreement, in which case all of Defendant's obligations under this
16 Agreement shall cease to be of any force or effect, and this Agreement shall be null and void. If
17 Defendant exercises this option, it shall provide Class Counsel with written notice of its election
18 within seven (7) calendar days of the Administrator informing Class Counsel and Defense
19 Counsel of the total number of Class Members who timely submitted valid Requests for
20 Exclusion, with a copy to the Administrator, at which point the Parties shall return to their
21 respective positions that existed before the execution of this Agreement, and no term of this
22 Agreement or any draft thereof, or the negotiation, documentation, or other part or aspect of the
23 Parties' settlement discussions, shall have any effect or be admissible as evidence for any
24 purpose in the Action, or in any other proceeding. In the event that the Settlement is rendered
25 null and void, the certification of the Class shall be automatically vacated and shall not constitute
26 evidence of or a binding determination that the requirements for certification of a class or
27 collective action have been met. In such circumstances, Defendant expressly reserves all rights to
28 challenge class certification for any purpose other than settlement purposes in the Action, or in

any other action, on all available grounds as if no class had been certified for settlement purposes, and no reference to the prior certification of this class, or any documents related thereto, shall be made for any purpose.

4.14 **Objections.** Only Class Members (i.e. those Class Members who have not submitted a Request for Exclusion) may object to the Settlement.

4.15 **Manner of Objecting.** Class Members who wish to object to the Settlement must send to the Administrator a personally signed, written statement objecting to the Settlement (“Objection(s)”) postmarked on or before the Notice Response Deadline. The Objection must contain (i) the name of this Action; (ii) the full name, address, telephone number, and last four digits of the Social Security Number of the person objecting as well as the full name, address, and telephone number of any attorney representing said person with respect to the objection; (iii) the words “Objection” at the top of the document; (iv) be personally signed by the Class Member seeking to object to the Settlement, and (v) a statement of the basis for their objections and whether or not the Class Member wishes to appear at the Final Approval Hearing to present oral argument. Class Members who timely submit an Objection in conformity with the requirements set forth herein may, but are not required to, appear at the Final Approval Hearing. No later than ten (10) calendar days from the Notice Response Deadline, the Administrator shall provide copies of all Objections received from Class Members, along with documents showing the postmarked date for each Objection, to Counsel for all Parties.

4.16 **Plan of Allocation and Calculation of Settlement Awards.** The Administrator shall be responsible for calculating the share of the Net Settlement Fund that Class Members are eligible to receive under the Settlement (“Individual Settlement Share(s)”) on a *pro rata* basis as follows:

4.16.1 The Administrator shall determine the amount of the Net Settlement Fund.

4.16.2 To determine each Class Member’s estimated Individual Settlement Share, the Administrator shall calculate the total number of Qualifying Workweeks worked by the Class Members during the Class Period. The Administrator will then divide the Net Settlement Fund by the total Qualifying Workweeks worked by the entire Class during the Class Period to arrive

1 at a "Workweek Value." The Administrator will then take that Workweek Value and multiply it
2 by the number of Qualifying Workweeks worked by each Class Member to yield his or her
3 Individual Settlement Share. To calculate final Individual Settlement Shares of Participating
4 Class Members, the Administrator shall perform the same calculation based on the Qualifying
5 Workweeks of the Participating Class Members.

6 4.16.3 Participating Class Members will be paid their Individual Settlement
7 Share subject to reduction for employee's and employer's share of withholdings and taxes with
8 respect to the wages portion of the Individual Settlement Shares; the net payment after reduction
9 for Withholdings and Taxes is the "Individual Settlement Payment(s)."

10 4.17 In the event a dispute arises with respect to an Individual Settlement Share
11 calculation, the Administrator shall make the final and binding determination of the amount to be
12 awarded, which shall not be appealable.

13 4.18 Defendant represented that for the period May 25, 2014 to present the Class
14 worked 33,631 workweeks. If it is determined that this workweeks count was actually more than
15 36,995, the Gross Settlement Fund shall be subject to *pro rata* increase to the extent the
16 workweeks count exceeds 36,995.

17 4.19 **Allocation and Taxes.** The payment by Defendant pursuant to this Agreement is
18 for alleged failure to pay compensation due, interest on the compensation, penalties regarding the
19 compensation sum, and all other claims as set forth in the Complaints. The Parties agree, for
20 purposes of this Settlement, that Individual Settlement Payments be allocated 20% to wages
21 subject to withholdings for which IRS W-2 Forms shall be issued by the Administrator, and 80%
22 to interest, penalties, and non-wage damages for which IRS 1099 Forms shall be issued by the
23 Administrator. In accordance with both state and federal tax laws, the Administrator shall
24 withhold such sums from each Participating Class Member's Individual Settlement Share as is
25 required in order to comply with the same. The Individual Settlement Shares will be subject to
26 reduction for the Withholdings and Taxes, i.e., employee's and employer's share of taxes and
27 withholdings for the wages portion of the Individual Settlement Payments. Each Participating
28 Class Member receiving payment under this Settlement shall be responsible for paying his or her

1 share of applicable federal, state, and local income taxes on all amounts such person receives
2 pursuant to this Agreement.

3 **4.19 Administrator Responsibilities Regarding Taxes.** It shall be the responsibility
4 of the Administrator or its designee to timely and properly withhold all applicable Withholdings
5 and Taxes, and to prepare and deliver the necessary tax documentation for signature by all
6 necessary parties and, thereafter, to pay the Withholdings and Taxes to the appropriate
7 authorities, and to file all necessary information and other tax returns. Payments to Participating
8 Class Members, Plaintiff, and Class Counsel pursuant to this Agreement shall be reported on IRS
9 Forms W-2 or 1099-MISC as applicable, with copies provided to the respective Participating
10 Class Members, Plaintiff, Class Counsel, and all applicable governmental entities as required by
11 law, and also to Defendant. All Withholdings and Taxes deposited with the applicable
12 governmental entities in accordance with this Agreement shall be part of, and paid out of, the
13 Individual Settlement Shares to each Settlement Class Member. The Administrator shall also
14 provide Defendant with appropriate documentation establishing that the Defendant's/employer's
15 share of any and all payroll taxes (including but not limited to, FICA, FUTA and SDI
16 contributions) has been paid from the GSF.

17 **4.20 Tax Expenses Resulting from Administration.** All reasonable and direct
18 expenses and costs incurred by or at the direction of the Administrator in connection with the
19 administration of the Settlement (including, without limitation, expenses of tax attorneys and/or
20 accountants incurred in providing advice to the Administrator, and mailing and distribution costs
21 and expenses relating to the filing (or failure to file) the informational and other tax returns
22 described above) shall be considered a cost of administration of the Settlement and shall be part
23 of the Administration Costs, to be paid out of the Gross Settlement Fund.

24 **4.21 No Effect on Benefits for Participating Class Members.** Plaintiff agrees,
25 on behalf of himself and all Participating Class Members, that this Agreement and any payments
26 under this Agreement shall not have any effect on the eligibility or calculation of employee
27 benefits with respect to the Participating Class Members. This Agreement does not represent any
28 modification of any previously credited hours of service, income, or other eligibility criteria

1 under any employee pension benefit plan, employee welfare benefit plan, or other program or
2 policy sponsored by any of the Released Parties.

3 4.22 Plaintiff also agrees, on behalf of all Participating Class Members, that no
4 payment provided under this Agreement shall be considered “compensation” or “annual earnings
5 for benefits” in any year for purposes of determining eligibility for, or benefit accrual within, any
6 employee pension benefit plan, employee welfare benefit plan, or other program or policy
7 sponsored by any of the Released Parties.

8 4.23 **No Claims.** No person shall have any claim against any of the Released Parties,
9 Counsel for Defendant, Plaintiff, the Class Members, or Class Counsel, based on mailings,
10 distributions, and payments made in accordance with or pursuant to this Agreement.

11 4.24 **Final Approval and Entry of Judgment.** Following the Notice Response
12 Deadline and before the Final Approval Hearing, on or before the date set by the Court, Plaintiff
13 shall move for Final Approval of the Settlement, requesting that the Court enter an order and
14 judgment granting final approval of the Settlement in a form that is mutually agreed upon by the
15 Parties (“Final Approval Order and Judgment”).

16 4.25 **Distribution of Settlement Awards.** After the Effective Date, the Individual
17 Settlement Payments shall be distributed to Participating Class Members in accordance with the
18 procedures set forth below:

19 4.26 **Remittance of Gross Settlement Fund.** Within fifteen (15) court days of the
20 Effective Date, Defendant will remit the Gross Settlement Fund to the Administrator for the
21 establishment of the Qualified Settlement Fund.

22 4.27 **Delivery of Payments.** Within seven (7) calendar days from the Effective Date,
23 the Administrator shall establish the Qualified Settlement Fund and distribute: (a) the Attorneys’
24 Fees and Costs Payment to Class Counsel, (b) the Individual Settlement Payment checks to all
25 Participating Class Members, (c) the LWDA Payment to the LWDA, (d) the Service Payment to
26 Plaintiff, and (e) the Withholdings and Taxes to the appropriate government entities. Within ten
27 (10) calendar days from the Effective Date, the Administrator shall transmit payment to itself for
28 the Administration Costs. Also, within seven (7) calendar days from the Effective Date, the

1 Administrator shall provide Class Counsel and Counsel for Defendant a written report listing
2 each Participating Class Member, the amount of the Individual Settlement Payment to be paid to
3 each Participating Class Member, the amount of Withholdings and Taxes associated with each
4 Individual Settlement Payment, including the amount of the employer's share of any and all
5 payroll taxes and contributions. Class Counsel shall hold the information contained in this report
6 in strictest confidence and not use or disclose it for any purpose, except on the written
7 authorization of counsel for Defendant or by order of the Court. Additionally, by no later than
8 the date set by the Court in its Final Approval Order and Judgment, and if none set, by no later
9 than thirty (30) calendar days following distribution of the Court-approved sums, the
10 Administrator shall file a report with the Court setting forth (1) the total amount of money paid
11 to Participating Class Members, (2) the LWDA Payment to the LWDA, (3) the Service Payment
12 paid to Plaintiff, (4) the payment made to itself for the Administration Costs, and (5) the
13 Attorneys' Fees and Costs paid to Class Counsel.

14 **4.28 Negotiation of Individual Settlement Payment Checks.** Checks sent to
15 Participating Class Members under this Agreement shall remain valid and negotiable for one
16 hundred and eighty (180) calendar days from the date of their mailing, and thereafter shall be
17 automatically canceled if not cashed or otherwise negotiated by the payee within that time. The
18 Administrator will provide notice to Class Counsel of any uncashed checks, and the
19 Administrator shall have responsibility to attempt to locate the impacted Participating Class
20 Members and, if a request to re-issue a check is made before the 180-day deadline, re-issue
21 checks with an expiration date within 180 days following the re-issuing of the checks.

22 **4.29** If a Participating Class Member has not cashed a check by the 30th day from the
23 date of the check's issuance, the Administrator shall send a postcard to the Class Member to
24 remind each to cash their check before the void date.

25 **4.30** If any Individual Settlement Payment checks are not cashed within 180 days of
26 issuance, they shall be cancelled, and monies associated with said cancelled checks shall be sent
27 to the Unclaimed Property Division of the California State Controller's office with an
28 identification of each Participating Class Member and the amount attributable to each

1 Participating Class Member to be held and distributed in accordance with California Unclaimed
2 Property Law, California Code of Civil Procedure § 1500 *et seq.* Defendant shall be returned the
3 proportional amount of the employer's share of taxes from any such cancelled settlement checks
4 within three (3) months of the expiration date of such checks. Plaintiff shall report to the Court
5 the total amount actually paid to the Participating Class Members 60 days after the expiration
6 date of all checks.

7 **4.31 Discharge of Obligations.** Defendant shall fully discharge its obligations to
8 Plaintiff and the Class through the remittance of the Gross Settlement Fund to the Administrator
9 as set forth in Paragraph 4.26, above, regardless of whether checks representing Individual
10 Settlement Payments are actually received and/or negotiated by Participating Class Members.
11 Once Defendant has complied with its obligations set forth in Paragraph 4.26, above, it will be
12 deemed to have satisfied all terms and conditions under this Agreement, shall be entitled to all
13 protections afforded to it under this Agreement, and shall have no further obligations under the
14 terms of this Agreement, regardless of what occurs with respect to the further administration of
15 the Settlement.

16 **4.32 Questions and Disputes.** In the event that questions or disputes arise regarding
17 the entitlement of any Class Member under this Agreement, counsel for each of the Parties shall
18 cooperate to provide to counsel for the other Party and the Administrator all available
19 information reasonably necessary to resolve them. Such information shall be provided in either
20 electronic form or hard copy, as the Administrator may reasonably request. If the Parties cannot
21 resolve any dispute concerning the entitlement of any Class Member under this Agreement, the
22 dispute(s) shall be submitted to the Administrator for resolution.

23 **4.33 Notification and Certification by the Administrator.** The Administrator shall
24 keep Defense Counsel and Class Counsel apprised of the status of the Settlement administration
25 process and its distribution of Individual Settlement Payments. Upon completion of
26 administration of the Settlement, the Administrator shall provide a detailed, written certification
27 of such completion to the Court and counsel for the Parties.

28 ///

1 4.34 **Nullification of Agreement if Settlement Not Approved.** In the event: (a) the
2 Court does not preliminarily approve the Settlement as provided herein; (b) the Court does not
3 finally approve the Settlement as provided herein; (c) the Court does not enter the Final
4 Approval Order and Judgment as provided herein; or (d) the Settlement does not become final
5 for any other reason, including the exercise of Defendant's right to reject the Settlement under
6 Section 4.13, above, this Agreement shall be null and void *ab initio* (with the exception of this
7 Section and terms regarding payment to Administrator) and any order or judgment entered by the
8 Court in furtherance of this Settlement shall be treated as withdrawn or vacated by stipulation of
9 the Parties. In such cases, Defendant on the one hand, and Plaintiff on the other hand, will
10 remain equally (50%) responsible for the fees incurred to that date by the Administrator, except
11 that Defendant shall be solely responsible for the fees incurred by the Administrator in the event
12 Defendant exercise its option to rescind this Agreement pursuant to Section 4.13 above. In the
13 event an appeal is taken from the Final Approval Order and Judgment, or any other appellate
14 review is sought before the Effective Date, administration of the Settlement shall be stayed
15 pending final resolution of the appeal or other appellate review.

16 **V. ENTRY OF JUDGMENT AND RELEASES**

17 5.1 **Obtaining Approval.** As soon as practicable after execution of this Agreement,
18 Class Counsel shall, with the cooperation of Defense Counsel as reasonably requested by Class
19 Counsel, take all necessary steps to secure Preliminary Approval and Final Approval of the
20 Settlement by the Court, including responding to any objectors, intervenors, or other persons or
21 entities seeking to prevent approval of this Agreement.

22 5.2 **Plaintiff's Waiver of Right to Opt Out.** By signing this Agreement, named
23 Plaintiff agrees to be bound by the terms herein and further agrees not to request exclusion from
24 this Agreement. Any such request for exclusion shall, therefore, be void and of no force or effect.

25 5.3 **The Class Release.** Participating Class Members agree to release, waive, not to
26 sue, file an administrative charge/complaint, or otherwise make any claim against any of the
27 Released Parties seeking any form of relief, remedy, or recovery based on any of the Released
28 Claims, which shall include any and all claims, rights, demands, and/or liabilities of every nature

1 and description, whether known or unknown, based on or arising out of the Released Claims. It
2 is the intent of the Parties that the Final Approval Order and Judgment entered by the Court shall
3 have full *res judicata* and collateral estoppel effect, and that it be final and binding upon
4 Participating Class Members regarding the Released Claims.

5 **5.4 Named Plaintiff's General Release.** Upon the Effective Date, and in
6 consideration of the promises and obligations set forth herein, named Plaintiff Marco Rodriguez,
7 and each of his successors, assigns, heirs, personal representatives, and all those who claim
8 through him, or who assert claims on his behalf, agrees to a general release of any and all claims
9 against the Released Parties, and Plaintiff shall be deemed to have, and by operation of the Final
10 Approval Order and Judgment shall have, expressly released, waived, and relinquished any and
11 all rights to allege or seek any form of relief, remedy, or recovery based on any of the Released
12 Claims. Upon the Effective Date, Plaintiff agrees not to sue or otherwise make a claim or charge
13 against any of the Released Parties for any of the Released Claims, and also expressly releases
14 and waives any and all claims, demands, rights, liabilities, and causes of action he has had or
15 ever had against any of the Released Parties, whether for economic damages, noneconomic
16 damages, punitive damages, penalties, restitution, injunctive or declaratory relief, interest,
17 attorneys' fees, costs, or any other forms of monetary or non-monetary relief in any way arising
18 out of or relating to any facts, transactions, events, policies, practices, occurrences, acts, conduct,
19 disclosures, statements, omissions, or failures to act at any time on or before the Effective Date,
20 including, but not limited to, any claims arising from or related to his employment or separation
21 of employment with Defendant, contractual and/or quasi-contractual relationship with the
22 Defendant and the Released Parties, or any of them; any allegations as to disputed or unpaid
23 wages, remuneration, and/or other compensation due by operation of statute, ordinance, contract,
24 or quasi-contract; any federal, state, or local law prohibiting discrimination or retaliation on the
25 basis of age, race, color, ancestry, religion, disability, sex, national origin, or citizenship or any
26 other protected category, including, without limitation, claims under Title VII, the California Fair
27 Employment and Housing Act, the California Labor Code, FLSA, the California IWC Orders,
28 the Employee Retirement Income Security Act, California Labor Code, the Americans With

1 Disabilities Act, and any other similar statutes whatever the city, county, state, or country of
2 enactment; any claims under the Family and Medical Leave Act of 1993 and/or the California
3 Family Rights Act; any tort or common law claims, and any transactions, incidents, events,
4 conduct, occurrences, acts, statements, disclosures, or omissions, occurring before the Effective
5 Date. This general release by Plaintiff shall become effective upon the Effective Date and
6 include all statutory claims, common law claims, tort claims, and claims for compensation to the
7 fullest and broadest extent permitted by law.

8 **5.5 Waiver of California Civil Code Section 1542.** Plaintiff acknowledges that the
9 general release herein includes potential facts, claims, and injuries/harm that may not be known
10 or suspected by him to exist, and he hereby expressly and affirmatively waives and relinquishes
11 any and all rights and benefits that he may otherwise have, on an individual basis, relating to the
12 claims released in Paragraph 5.4 pursuant to California Civil Code section 1542, and any similar
13 law of any state or territory of the United States. California Civil Code section 1542 states as
14 follows:

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

22 **VI. ADDITIONAL PROVISIONS**

23 **6.1 No Admission of Liability.** Defendant has denied and continues to deny each and
24 every alleged claim, contention, liability, wrongdoing, and injury arising out of any of the facts
25 or conduct alleged in the Complaints, and believes it did not violate any law, and that it also has
26 valid defenses to the alleged claims. This Agreement reflects the compromise and settlement of
27 disputed claims between the Parties, and their provisions and any and all drafts, communications,
28 or discussions relating thereto do not constitute, are not intended to constitute, and will not under

any circumstances be deemed to constitute an admission by any Party as to the merits, validity, or accuracy of any of the allegations or claims in the Action, nor a waiver of any defense.

6.2 **Parties Represented by Counsel.** The Parties hereby acknowledge that they have been represented in negotiations for and in the preparation of this Agreement by independent counsel of their own choosing, they have read this Agreement and have had it fully explained to them by such counsel, and they are fully aware of the contents of this Agreement and of its legal effect.

6.3 **Construction.** The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive arm's-length negotiations between the Parties, and that this Settlement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, her, or its counsel participated in the drafting of this Settlement.

6.4 **Voluntary Agreement.** This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of either Party, or of any other person, firm, or entity. Each Party has made such investigation of the facts pertaining to this Agreement and of all other matters pertaining hereto as he, she, or it deems necessary.

6.5 **Notices.** Aside from the Notice of Class Action Settlement, all others notices, requests, demands, and other communications required to be given under this Agreement shall be in writing and shall be delivered personally, faxed, emailed or mailed, postage prepaid, by first class United States mail, addressed as follows:

To Plaintiff and Class Counsel:

LAWYERS *for* JUSTICE, PC

Edwin Aiwazian

410 West Arden Avenue, Suite 203

Glendale, California 91203

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

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1 **To Defendant and Defense Counsel:**

2 DUANE MORRIS LLP

3 Delia A. Isvoranu

4 disvoranu@duanemorris.com

5 One Market Plaza, Spear Tower, 22nd Floor

6 San Francisco, CA 94105-1127

7 6.6 The Parties and their Counsel agree that they shall not issue media releases,
8 regarding the terms of this Settlement. In the event Class Counsel references the Settlement on
9 their websites, Class Counsel will simply refer to Defendant as a “Financial Company.” These
10 provisions shall in no way impede and/or impair Class Counsel and/or the Plaintiff from
11 fulfilling their obligations to the Class, or their obligations to obtain preliminary and final
12 approval of the Settlement.

13 6.7 **Authorization.** The Parties represent and warrant that each signatory hereto has
14 the full right and authority to enter into this Agreement and bind the Party on whose behalf he,
15 she, or it has executed this Agreement.

16 6.8 **Agreement Binding on Successors in Interest.** This Agreement shall be binding
17 on and inure to the benefit of the respective successors, assigns, heirs, and personal
18 representatives of the Parties.

19 6.9 **Time Periods.** The time periods and dates set forth in this Agreement with
20 respect to the giving of notices and hearings are subject to approval and modification by the
21 Court or the written stipulation of counsel for the Parties.

22 6.10 **Mutual Full Cooperation.** The Parties agree to cooperate fully with each other to
23 accomplish the terms of this Agreement, including, but not limited to, execution and delivery of
24 any and all additional papers, documents, and other assurances, and taking such other action that
25 may be reasonably necessary to implement the terms of this Agreement. The Parties and their
26 counsel shall use their best efforts, including all efforts contemplated by this Agreement and any
27 other efforts that may become necessary by order of the Court, to effectuate this Agreement and
28 the terms set forth herein.

1 6.11 **Entire Agreement.** This Agreement contains the entire agreement between the
2 Parties and constitutes the complete, final, and exclusive embodiment of their agreement with
3 respect to the subject matter hereof. This Agreement is executed without reliance upon any
4 promise, representation, or warranty by either Party or any representative of a Party, other than
5 those expressly set forth herein. Any inconsistency between this Agreement and the attached
6 Exhibits will be resolved in favor of this Agreement. Exhibits to this Agreement are integral
7 parts of this Agreement and are hereby incorporated and made a part of the Agreement.

8 6.12 **Headings.** The various headings used in this Agreement are solely for the
9 convenience of the Parties and shall not be used to interpret this Agreement.

10 6.13 **Amendment and Modification.** This Agreement may not be amended, altered, or
11 modified except in writing and signed by the Parties hereto, their successors in interest, or their
12 duly authorized representatives, and approved by the Court.

13 6.14 **Governing Law.** This Agreement is entered into in accordance with the laws of
14 the State of California and shall be governed by and interpreted in accordance with those laws.

15 6.15 **Jurisdiction of the Court.** Any dispute regarding the interpretation, validity, or
16 otherwise arising out of this Agreement, or relating to the Action or the Released Claims, shall
17 be subject to the exclusive jurisdiction of the Court. Plaintiff, Class Members, and Defendant
18 agree to submit to the personal and exclusive jurisdiction of the Court for the purpose of
19 resolving any such dispute. Following the Effective Date, the Court shall retain jurisdiction
20 solely with respect to the interpretation, implementation, and enforcement of this Agreement and
21 all orders and judgments entered in connection therewith, and the Parties and their counsel
22 submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing
23 the Settlement embodied in this Agreement and all orders and judgments entered in connection
24 therewith.

25 6.16 **Agreement Constitutes a Complete Defense.** To the extent permitted by law,
26 this Agreement may be pleaded as a full and complete defense to any action, suit, or other
27 proceeding that may be instituted, prosecuted, or attempted in breach of or contrary to any term
28 of this Agreement.

1 **6.17 Execution Date and Execution in Counterparts.** This Agreement shall be
2 deemed executed and enforceable upon the last date of signature of all of the undersigned. The
3 Parties may execute this Agreement in counterparts, each of which shall constitute an original,
4 but all of which together shall constitute one and the same instrument having the same force and
5 effect as if all Parties had signed the same instrument.

6 **6.18 Signatures.** The Parties agree that this Agreement may be executed and delivered
7 via DocuSign, Assured Sign, Hello Sign, electronic mail (including PDF), and/or any other
8 electronic signature complying with the U.S. federal ESIGN Act of 2000 and California's
9 Uniform Electronic Transactions Act (Civ. Code § 1633.1, et. seq.). Any counterpart so executed
10 and delivered shall be deemed valid and enforceable, and fully and validly delivered, for all
11 purposes.

12 IN WITNESS THEREOF, the Parties hereto have so agreed.

13 January 21, 2021
14 Dated: _____

Marco Rodriguez
Electronically signed

AssureSign® 6466b304-29e7-4714-b834-acb7012971ce 2021-01-21 18:04:20 UTC - 98.35.236.28

15
16 Plaintiff

17
18 Dated: _____

NewRez LLC (fka New Penn Financial, LLC)

19
20 By: _____
21 Spencer Mosness, General Counsel

22 Approved as to form:

23
24 Dated: _____

DUANE MORRIS LLP

25
26
27 Delia A. Isvoranu
28 Attorneys for Defendant NewRez LLC
 (fka New Penn Financial, LLC)

1 **6.17 Execution Date and Execution in Counterparts.** This Agreement shall be
2 deemed executed and enforceable upon the last date of signature of all of the undersigned. The
3 Parties may execute this Agreement in counterparts, each of which shall constitute an original,
4 but all of which together shall constitute one and the same instrument having the same force and
5 effect as if all Parties had signed the same instrument.

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9 Uniform Electronic Transactions Act (Civ. Code § 1633.1, et. seq.). Any counterpart so executed
10 and delivered shall be deemed valid and enforceable, and fully and validly delivered, for all
11 purposes.

12 IN WITNESS THEREOF, the Parties hereto have so agreed.

13
14 Dated: _____

Marco Rodriguez

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16 _____
Plaintiff

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18 Dated: February 8, 2021

NewRez LLC (fka New Penn Financial, LLC)

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20 By: _____



Spencer Mosness, General Counsel

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22 Approved as to form:

23
24 Dated: February 10, 2021

DUANE MORRIS LLP

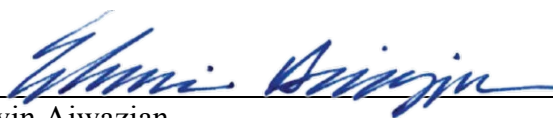
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26 _____
Delia A. Isvoranu

27 Attorneys for Defendant NewRez LLC
28 (fka New Penn Financial, LLC)

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Dated: 1/21/2021

LAWYERS FOR JUSTICE, PC



Edwin Aiwanian
Attorneys for Plaintiff Marco Rodriguez

Exhibit A

NOTICE OF CLASS ACTION SETTLEMENT

Marco Rodriguez v. New Penn Financial, LLC, et al.
Superior Court of California for the County of San Francisco, Case No. 34-2018-00233729

PLEASE READ THIS NOTICE CAREFULLY.

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

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

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

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiff Marco Rodriguez ("Plaintiff") and Defendant NewRez LLC (formerly known as "New Penn Financial, LLC") ("Defendant") (Plaintiff and Defendant are collectively referred to as the "Parties") in the case entitled *Marco Rodriguez v. New Penn Financial, LLC, et al.*, San Francisco County Superior Court, Case No. 34-2018-00233729 ("Action"), which may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [hearing date] at [hearing time] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

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

"Class Member" means a member of the Class.

"Class Period" means the period beginning May 25, 2014 and ending on [date of Preliminary Approval].

II. BACKGROUND OF THE ACTION

On May 25, 2018, Marco Rodriguez commenced the Action by filing the Class Action Complaint for Damages in the San Francisco County Superior Court. On [redacted], Plaintiff filed the Second Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, Et Seq. ("Operative Complaint"), adding a cause of action under the Private Attorneys General Act, California Labor Code section 2698, *et seq.* ("PAGA"). Plaintiff alleges that Defendant failed to properly pay minimum and overtime wages, include commission, bonus, and/or incentive pay in the regular rate of pay for overtime purposes, provide compliant meal and rest breaks and associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide accurate wage statements, keep requisite payroll records, and reimburse business expenses, and thereby engaged in unfair business practices and conduct that gives rise to penalties under PAGA. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, restitution, penalties, interest, and attorneys' fees and costs.

Defendant denies all of the allegations in the Action and denies that it violated any law. The Court did not decide the merits of the allegations or whether any law was violated.

The Parties participated in formal mediation sessions with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into the Stipulation of Class Action and PAGA Settlement and Release ("Settlement" or "Settlement Agreement").

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On [date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed Simpluris, Inc. as the administrator of the Settlement (“Administrator”), Plaintiff Marco Rodriguez as representative of the Class (“Class Representative”), and the following Plaintiff’s attorneys as counsel for the Class (“Class Counsel”):

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

If you are a Class Member, you do not need to take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Settlement (in which case you will not receive an Individual Settlement Payment) or object to the Settlement, if you so choose, as explained more fully in Section III below.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff or to Class Members. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of Class Members. The Court has made no ruling on the merits of the Class Members’ claims and has determined only that certification of the Class for settlement purposes is appropriate under California law.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total gross settlement amount is Three Million Dollars (\$3,000,000) (the “Gross Settlement Fund”). The portion of the Gross Settlement Fund that is available for payment to Class Members who have not, by the Notice Response Deadline, postmarked a Request for Exclusion (“Participating Class Members”) is referred to as the “Net Settlement Fund.” The Net Settlement Fund will be the Gross Settlement Fund less the following payments which are subject to approval by the Court: (1) Attorneys’ Fees and Costs Payment, consisting of attorneys’ fees in the amount of 38% of the Gross Settlement Fund (i.e., \$1,140,000) and reimbursement of litigation costs and expenses in an amount up to \$85,000 to Class Counsel; (2) Service Payment in an amount not to exceed \$15,000 to Plaintiff for his service in the Action; (3) payment to the California Labor and Workforce Development Agency (“LWDA”) in the amount of \$187,500 for its 75% portion of the PAGA Payment (“LWDA Payment”); and (4) Administration Costs in an amount estimated not to exceed \$10,000 to the Administrator. Note: a total of \$250,000 from the Gross Settlement Fund has been allocated for resolution of the claims for penalties under the Private Attorneys General Act (“PAGA Payment”), of which the LWDA will be paid 75% and the remaining 25% (i.e., \$62,500) will be a part of the Net Settlement Fund for distribution to Participating Class Members.

Class Members are eligible to receive payment under the Settlement of their share of the Net Settlement Fund (“Individual Settlement Share”) on a *pro rata* basis based on the number of actual weeks that they worked for Defendant during the Class Period (“Qualifying Workweeks”). The Administrator has divided the Net Settlement Fund by the total number of Qualifying Workweeks worked by the entire Class during the Class Period to arrive at a “Workweek Value,” and multiplied the Workweek Value by the number of Qualifying Workweeks worked by each Class Member to yield his or her Individual Settlement Share that he or she may be eligible to receive under the Settlement (which is listed in Section III.C below).

Each Individual Settlement Share will be allocated as twenty percent (20%) to wages which will be reported on an IRS Form W2 and eighty percent (80%) to interest, penalties, and non-wage damages which will be reported on an IRS Form 1099 (if applicable). Participating Class Members will be issued payment of their respective Individual Settlement Share, subject to reduction for the employee’s and employer’s share of withholdings and taxes with respect to the wages portion of the Individual Settlement Share (the net payment is referred to as their “Individual Settlement Payment”).

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

B. Your Qualifying Workweeks Based on Defendant's Records

According to Defendant's records:

From May 25, 2014 to [date of Preliminary Approval], you worked for Defendant as a non-exempt or hourly-paid employee in California for [] Qualifying Workweeks.

C. Your Estimated Individual Settlement Share

As explained above, your estimated Individual Settlement Share is based on the number of Qualifying Workweeks credited to you.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$ []. The Individual Settlement Payment is subject to reduction for employee's and employer's share of withholdings and taxes with respect to the wages portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Share reflected in this Notice is only an estimate. Your actual Individual Settlement Share may be higher or lower.

D. Release of Claims

If the Court grants final approval of the Settlement, upon the Effective Date, Plaintiff and all Class Members who do not submit a valid request for exclusion (i.e., Participating Class Members) agree to forever release, waive, not to sue, not to file an administrative charge/complaint, or otherwise make any claim against any of the Released Parties seeking any form of relief, remedy, or recovery based on any of the Released Claims, which shall include any and all claims, rights, demands, and/or liabilities of every nature and description, whether known or unknown, based on or arising out of the Released Claims.

"Released Claims" means all claims for wages, premiums, reimbursement of expenses, meal-period violations, rest-break violations, alleged failure to include commission, bonus, and/or incentive pay in the regular rate of pay for overtime purposes, inaccurate/incomplete wage statements, various penalties, and other related claims, penalties, and interest actually alleged or that could have been alleged in the Action by the Plaintiff, on behalf of himself, the Class Members, similarly situated employees, and the aggrieved employees, based on the facts alleged in the Complaints, allegedly occurring during the Class Period, including but not limited to: (1) failure to provide meal periods, compensation in lieu thereof, and/or failure to pay premium pay for missed, late, and/or short meal periods in violation of California Labor Code §§ 226.7 and 512, the applicable Industrial Welfare Commission Wage Order, or California Business & Professions Code § 17200 *et seq.*; (2) failure to provide rest breaks, compensation in lieu thereof, and/or failure to pay premium pay for missed, late, and/or short rest breaks in violation of California Labor Code § 226.7, the applicable Industrial Welfare Commission Wage Order, or California Business & Professions Code § 17200 *et seq.*; (3) failure to pay wages for all hours worked, failure to pay overtime wages, and failure to calculate and pay the regular rate of pay/overtime rate on commission, bonus, and/or incentive pay in the violation of California Labor Code §§ 510, 1194, 1194.2, 1197, 1197.1, & 1198, the applicable Industrial Welfare Commission Wage Order, or California Business & Professions Code § 17200 *et seq.*; (4) failure to provide reimbursement for business expenses in violation of California Labor Code §§ 2800 and 2802, the applicable Industrial Welfare Commission Wage Order, or California Business & Professions Code § 17200 *et seq.*; (5) failure to provide accurate, complete, and itemized wage statements in violation of California Labor Code § 226, or California Business & Professions Code § 17200 *et seq.*; (6) failure to pay penalties under California Labor Code §§ 201, 202, 203, and 204, and California Business & Professions Code § 17200 *et seq.*; (7) failure to keep accurate payroll/wage records pursuant to Labor Code § 1174(d); (8) civil penalties under PAGA, California Labor Code § 2698 *et seq.*, for the alleged California Labor Code violations that were or that could reasonably have been alleged in the Action based on the facts stated in the Complaints;

(9) that Defendant is liable for the attorneys' fees and costs incurred to prosecute this Action on behalf of Class Members, including fees and costs incurred for the services of Class Counsel; and (10) that Defendant is liable for any other remedies, penalties or interest under California law, including the applicable Industrial Welfare Commission ("IWC") Wage Order(s), based on the facts alleged in the Complaints. "Released Claims" also includes all claims that Plaintiff and/or the Class Members may have against the Released Parties relating to (i) the payment, taxation and allocation of attorneys' fees and costs to Class Counsel pursuant to this Agreement, (ii) the payment, taxation and allocation of Plaintiff's Service Award pursuant to this Agreement, and (iii) the payment, taxation, and allocation of penalties under the PAGA.

"Released Parties" means NewRez LLC, formerly known as "New Penn Financial, LLC," and all its/their past and present successors, predecessors, subsidiaries, parents, holding companies, sister and affiliated companies, divisions and other related entities, shareholders, subsidiaries, investors, officers, directors, partners, assigns, agents, employees, principals, heirs, administrators, attorneys, vendors, accountants, auditors, consultants, fiduciaries, insurers, reinsurers, employee benefit plans, and representatives of each of them, both individually and in their official capacities, past or present, as well as all persons acting by, through, under or in concert with any of these persons or entities.

Unless you exclude yourself from this Class Action, you give up any right to sue any of the Released Parties for the claims that this Settlement resolves.

E. Attorneys' Fees and Costs Payment to Class Counsel

Class Counsel will seek attorneys' fees in the amount of 38% of the Gross Settlement Fund (i.e., \$1,140,000) and reimbursement of litigation costs and expenses in an amount of up to \$85,000 (collectively, Attorneys' Fees and Costs Payment), subject to approval by the Court. Any Attorneys' Fees and Costs Payment awarded by the Court will be paid from the Gross Settlement Fund. Class Counsel has been prosecuting the Action on behalf of Plaintiff and Class Members on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Service Payment to Plaintiff

In consideration for his service in connection with the Action, Plaintiff Marco Rodriguez will seek a Service Payment in the amount of \$15,000, to be paid from the Gross Settlement Fund, subject to approval by the Court. If awarded, the Service Payment will be paid to Plaintiff in addition to his Individual Settlement Payment that he is entitled to under the Settlement.

G. Administration Costs to the Administrator

Payment to the Administrator, Simpluris, Inc., is estimated not to exceed \$10,000 for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the Settlement, processing Requests for Exclusion and Objections from Class Members, resolving any disputes by Class Members regarding the number of Qualifying Workweeks credited to them, calculating Individual Settlement Shares and Individual Settlement Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Gross Settlement Fund, subject to approval by the Court.

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

A. Participate in the Settlement

If you want to participate in the Settlement and receive money from the Settlement, you do not have to do anything. You will automatically be included in the Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Settlement.

Unless you elect to exclude yourself from the Settlement, you will be bound by the terms of the Settlement and any judgment that may be entered by the Court based thereon, and you will release the claims described in Section III.D above. As a Class Member, you will not be separately responsible for the payment of attorney's fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney's fees and expenses.

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B. Request Exclusion from the Settlement

If you wish to be excluded from, or opt out of, the Settlement, you must submit to the Administrator a written, signed request to be excluded from the Settlement (“Request for Exclusion”), postmarked by **[Notice Response Deadline]**, at the following address:

[Administrator]
[Mailing Address]

The Request for Exclusion must: (i) contain the name of this Action (*Marco Rodriguez v. New Penn Financial, LLC, et al.*, Case No. 34-2018-00233729); (ii) contain your full name, address, telephone number, and last four digits of your Social Security Number; (iii) contain the words “Request for Exclusion” at the top of the document; (iv) be personally signed by you; and (v) contain a statement indicating your desire to be excluded, such as: “I wish to be excluded from the Settlement of the Action, *Marco Rodriguez v. New Penn Financial, LLC, et al.*, Case No. 34-2018-00233729, currently pending in the Sacramento Superior Court.”

If the Court grants final approval of the Settlement, any Class Member who submits a valid and timely Request for Exclusion will not be entitled to receive any payment from the Settlement, will not be bound by the Settlement (and the release of claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Settlement. Any Class Members who do not submit a valid and timely Request for Exclusion will be deemed Participating Class Members and will be bound by all terms of the Settlement, including those pertaining to the release of claims described in Section III.D above, as well as any judgment that may be entered by the Court based thereon.

C. Object to the Settlement

You can object to the terms of the Settlement as long as you have not submitted a Request for Exclusion. To object, you must send to the Administrator a personally signed, written statement objecting to the Settlement (“Objection”), postmarked on or before **[Notice Response Deadline]**, at the address listed in Section IV.B above.

The Objection must: (i) contain the name of this Action (*Marco Rodriguez v. New Penn Financial, LLC, et al.*, Case No. 34-2018-00233729); (ii) contain your full name, address, telephone number, and last four digits of your Social Security Number as well as the full name, address, and telephone number of any attorney representing you with respect to the objection; (iii) contain the words “Objection” at the top of the document; (iv) be personally signed by you; and (v) contain a statement of the basis for your objections, along with any documents supporting your objection, and state whether or not you wish to appear at the Final Approval Hearing to present oral argument.

Objecting is simply telling the Court you do not like something about the Settlement. Requesting to be excluded from the Class is telling the Court that you do not want to be part of the Class for whatever reason. If you choose to request exclusion from the Class Action, you have no basis to object because the case no longer affects you.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 53 of the Sacramento County Superior Court, Gordon D. Schaber Sacramento County Courthouse, 720 Ninth Street, Sacramento, California 95814, on **[date]**, at **[time]**, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve and award Attorneys’ Fees and Costs Payment to Class Counsel, Service Payment to Plaintiff, and Administration Costs to the Administrator.

The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at the Final Approval Hearing, although you may appear remotely if you wish to.

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VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the entire, detailed Settlement Agreement and other papers that are on file with the Court.

You may view the Settlement Agreement and other documents filed in the Action free of charge by using one of the computer terminal kiosks available at each location of the Sacramento County Superior Court that has a facility for civil filings, including, but not limited to, the following: (1) Civil Records Unit, Room 102 (window 18) in the Gordon D. Schaber Sacramento County Courthouse located at 720 Ninth Street, Sacramento, California 95814; or (2) Hall of Justice located at 813 Sixth Street, Sacramento, California 95814. Many of the documents filed in the Action can also be accessed online at the Sacramento County Superior Court's website, known as 'Public Case Access System,' at the following web address:

<https://services.saccourt.ca.gov/PublicCaseAccess/>

After navigating to the Sacramento County Superior Court's Public Case Access System website, click on the 'Civil' drop-down menu, click 'Search By Case,' then select the year '2018' and enter the case number '00233729,' and click 'SEARCH.' Thereafter, you should be able to view documents filed in the case that have been imaged by the Court and information that has been made available by the Court, for free or at a minimal charge.

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

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