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**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

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

Reservation No.: 2557531
Date: April 15, 2021
Time: 1:30 p.m.
Department: 53

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

1 This matter has come before the Honorable Shama H. Mesiwala in Department 53 of the
2 Superior Court of the State of California, for the County of Sacramento, on April 15, 2021 at 1:30
3 p.m. for Plaintiff's Motion for Preliminary Approval of Class Action Settlement. Lawyers *for*
4 Justice, PC appears as counsel for Plaintiff Marco Rodriguez ("Plaintiff") and Duane Morris, LLP
5 appears as counsel for Defendant NewRez LLC (formerly known as "New Penn Financial, LLC")
6 ("Defendant").

7 The Court, having carefully considered the papers, argument of counsel, and all matters
8 presented to the Court, and good cause appearing, hereby GRANTS Plaintiff's Motion for
9 Preliminary Approval of Class Action Settlement.

10 **IT IS HEREBY ORDERED THAT:**

11 1. The Court preliminarily approves the Stipulation of Class Action and PAGA
12 Settlement and Release ("Settlement," "Agreement," or "Settlement Agreement"), attached as
13 "EXHIBIT 1" to the Declaration of Edwin Aiwarzian in Support of Plaintiff's Motion for Preliminary
14 Approval of Class Action Settlement. This is based on the Court's determination that the Settlement
15 falls within the range of possible approval as fair, adequate, and reasonable.

16 2. This Order incorporates by reference the definitions in the Settlement Agreement,
17 and all capitalized terms defined therein shall have the same meaning in this Order as set forth in the
18 Settlement Agreement.

19 3. The Court hereby grants Plaintiff leave to file the [Proposed] Second Amended Class
20 Action Complaint for Damages and Enforcement under the Private Attorneys General Act, Cal.
21 Labor Code § 2698, Et Seq. ("Second Amended Complaint") which is attached hereto as "**EXHIBIT**
22 **1.**" The Second Amended Complaint shall be deemed filed as of the date of the entry of this Order,
23 and shall be the operative complaint in the Action for purpose of Settlement, including the release
24 of claims. The Second Amended Complaint and all allegations and causes pleaded therein shall be
25 deemed denied by Defendant, and each of them, without the necessity of Defendant filing an answer
26 to the Second Amended Complaint or any other pleading in the Action. In the event that the
27 Settlement does not become final for any reason, the Second Amended Complaint shall be *void ab*
28

1 *initio* and the Original Complaint shall be the operative complaint for all purposes unless otherwise
2 ordered by the Court.

3 4. It appears to the Court on a preliminary basis that the Settlement is fair, adequate,
4 and reasonable. It appears to the Court that extensive investigation and research have been
5 conducted such that counsel for the parties at this time are able to reasonably evaluate their respective
6 positions. It further appears to the Court that the Settlement, at this time, will avoid substantial
7 additional costs by all parties, as well as avoid the delay and risks that would be presented by the
8 further prosecution of the Action. It further appears that the Settlement has been reached as the
9 result of intensive, serious and non-collusive, arms-length negotiations, and was entered into in good
10 faith.

11 5. The Court preliminarily finds that the Settlement, including the allocations for the
12 Attorneys' Fees and Costs Payment, Service Payment, LWDA Payment, Administration Costs, and
13 payments to the Participating Class Members provided thereby, appear to be within the range of
14 reasonableness of a settlement that could ultimately be given final approval by this Court. Indeed,
15 the Court has reviewed the monetary recovery that is being granted as part of the Settlement and
16 preliminarily finds that the monetary settlement awards made available to the Class Members are
17 fair, adequate, and reasonable when balanced against the probable outcome of further litigation
18 relating to certification, liability, and damages issues.

19 6. The Court concludes that, for settlement purposes only, the proposed Class meets
20 the requirements for certification under section 382 of the California Code of Civil Procedure in
21 that: (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
22 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
23 community of interest amongst the members of the Class with respect to the subject matter of the
24 litigation; (c) Plaintiff's claims are typical of the claims of the members of the Class; (d) Plaintiff
25 will fairly and adequately protect the interests of the members of the Class; (e) a class action is
26 superior to other available methods for the efficient adjudication of the controversy; and (f) Class
27 Counsel is qualified to act as counsel for Plaintiff in his individual capacity and as the representative
28 of the Class.

1 7. The Court conditionally certifies, for settlement purposes only, the Class, defined as
2 follows:

3 All current and former hourly-paid or non-exempt employees who worked for
4 Defendant within the State of California at any time during the period from May 25,
2014 to the date of this Order.

5 8. The Court provisionally appoints Edwin Aiwazian, Arby Aiwazian, and Joanna
6 Ghosh of Lawyers *for* Justice, PC as counsel for the Class (“Class Counsel”).

7 9. The Court provisionally appoints Plaintiff Marco Rodriguez as the representative of
8 the Class (“Class Representative”).

9 10. The Court provisionally appoints Simpluris, Inc. (“Simpluris”) to handle the
10 administration of the Settlement (“Administrator”).

11 11. Within twenty-one (21) calendar days after the entry of this Order, Defendant shall
12 provide the Administrator with the following information about each Class Member: (1) full name;
13 (2) most recently known mailing address; (3) job title(s); (4) telephone number(s); (5) Social
14 Security Number; and (6) dates of employment from which the Administrator can calculate the total
15 number of Qualifying Workweeks (collectively referred to as the “Class List and Data”) in
16 conformity with the Settlement Agreement.

17 12. The Court approves, both as to form and content, the Notice of Class Action
18 Settlement (“Notice Packet”) attached hereto as “**EXHIBIT 2.**” The Notice Packet shall be provided
19 to Class Members in the manner set forth in the Settlement Agreement. The Court finds that the
20 Notice Packet appears to fully and accurately inform the Class Members of all material elements of
21 the Settlement, of Class Members’ right to be excluded from the Settlement by submitting a Request
22 for Exclusion and of each Participating Class Member’s right and opportunity to object to the
23 Settlement by submitting an Objection to the Administrator. The Court further finds that distribution
24 of the Notice Packet substantially in the manner and form set forth in the Settlement Agreement and
25 this Order, and that all other dates set forth in the Settlement Agreement and this Order, meet the
26 requirements of due process and shall constitute due and sufficient notice to all persons entitled
27 thereto. The Court further orders the Administrator to mail the Notice Packet by first class United
28 States mail to all Class Members within fourteen (14) calendar days of receipt of the Class List and

1 Data, pursuant to the terms set forth in the Settlement Agreement.

2 13. The Court hereby preliminarily approves the proposed procedure, set forth in the
3 Settlement Agreement, for seeking exclusion from the Settlement. Any Class Member may choose
4 to be excluded from, or opt out of, the Settlement by submitting a written, signed Request for
5 Exclusion, in conformity with the requirements set forth in the Notice Packet, to the Administrator,
6 postmarked no later than the date which is thirty-five (35) calendar days from the initial mailing of
7 the Notice Packet to Class Members ("Notice Response Deadline"). Any such person who timely
8 and validly chooses to opt out of, and be excluded from, the Settlement will not be entitled to any
9 recovery under the Settlement and will not be bound by the Settlement or have any right to object,
10 appeal, or comment thereon. Class Members who have not, by the Notice Response Deadline,
11 postmarked a Request for Exclusion (i.e., Participating Class Member) shall be bound by the
12 Settlement Agreement and any final judgment based thereon.

13 14. A Final Approval Hearing shall be held before this Court on
14 _____ at _____ a.m./p.m. in
15 Department 53 of the Sacramento County Superior Court, located at Gordon D. Schaber Courthouse,
16 720 9th Street, Sacramento, California 95814, to determine all necessary matters concerning the
17 Settlement, including: whether the proposed settlement of the Action on the terms and conditions
18 provided for in the Settlement is fair, adequate, and reasonable and should be finally approved by
19 the Court; whether a judgment, as provided in the Settlement, should be entered herein; whether the
20 plan of allocation contained in the Settlement should be approved as fair, adequate, and reasonable
21 to the Class Members; and determine whether to finally approve the requests for the Attorneys' Fees
22 and Costs Payment, Service Payment, LWDA Payment, and Administration Costs.

23 15. Class Counsel shall file a motion for final approval of the Settlement and for
24 Attorneys' Fees and Costs Payment, Service Payment, LWDA Payment, and Administration Costs,
25 along with the appropriate declarations and supporting evidence, including the Administrator's
26 declaration, by _____, to be heard
27 at the Final Approval Hearing.

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1 16. To object to the Settlement, a Class Member must submit a written Objection to the
2 Administrator on or before the Notice Response Deadline. The Objection must be signed and must
3 contain the information that is required, as set forth in the Notice Packet, including and not limited
4 to the grounds for the objection.

5 17. In the event the Settlement does not become effective in accordance with the terms
6 of the Settlement Agreement, or the Settlement is not finally approved, or is terminated, cancelled
7 or fails to become effective for any reason, this Order shall be rendered null and void, shall be
8 vacated, and the Parties shall revert back to their respective positions as of before entering into the
9 Settlement Agreement.

10 18. The Court reserves the right to adjourn or continue the date of the Final Approval
11 Hearing and any dates provided for in the Settlement Agreement without further notice to the Class
12 Members, and retains jurisdiction to consider all further applications arising out of or connected with
13 the Settlement.

14 **IT IS SO ORDERED.**

15
16 Dated: _____

By:

The Honorable Shama H. Mesiwala
Judge of the Superior Court

EXHIBIT 1

Edwin Aiwazian (SBN 232943)
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**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 and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

NEW PENN FINANCIAL, LLC, a Delaware
corporation; NEWREZ, LLC, a Delaware
company; and DOES 2 through 100,
inclusive,

Defendants.

Case No.: 34-2018-00233729

Honorable Alan G. Perkins
Department 35

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

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

- (10) Violation of California Business & Professions Code §§ 17200, et seq.;
- (11) Violation of California Labor Code § 2698, et seq. (Private Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff MARCO RODRIGUEZ (“Plaintiff”), individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act (“PAGA”), and alleges as follows:

JURISDICTION AND VENUE

1. This class action is brought pursuant to the California Code of Civil Procedure section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial. The “amount in controversy” for the named Plaintiff, including but not limited to claims for compensatory damages, restitution, penalties, wages, premium pay, and pro rata share of attorneys’ fees, is less than seventy-five thousand dollars (\$75,000).

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

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

4. Venue is proper in this Court because, upon information and belief, Defendant maintains offices, has agents, employs individuals, and/or transacts business in the State of California, County of Sacramento. At all relevant times, Defendant has maintained its agent for service of process within the State of California, County of Sacramento.

PARTIES

5. Plaintiff MARCO RODRIGUEZ is an individual residing in the State of California.

6. Defendant NEW PENN FINANCIAL, LLC, at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California.

7. Defendant NEWREZ, LLC, at all times herein mentioned, was and is, upon information and belief, a Delaware company, and at all times herein mentioned, an employer whose employees are engaged throughout the State of California.

8. At all relevant times, Defendants NEW PENN FINANCIAL, LLC and NEWREZ, LLC were the “employers” of Plaintiff within the meaning of all applicable California laws and statutes.

9. At all times herein relevant, Defendants NEW PENN FINANCIAL, LLC, NEWREZ, LLC, and DOES 2 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and/or assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization and/or consent of each defendant designated as a DOE herein.

10. The true names and capacities, whether corporate, associate, individual or otherwise, of defendants DOES 2 through 100, inclusive, are unknown to Plaintiff who sue said defendants by such fictitious names. Plaintiff is informed and believes, and based on that information and belief alleges, that each of the defendants designated as a DOE is legally responsible for the events and happenings referred to in this Complaint, and unlawfully caused the injuries and damages to Plaintiff and the other class members as alleged in this Complaint. Plaintiff will seek leave of court to amend this Complaint to show the true names and

capacities when the same have been ascertained.

11. Defendants NEW PENN FINANCIAL, LLC, NEWREZ, LLC, and DOES 2 through 100 will hereinafter collectively be referred to as “Defendants.”

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

CLASS ACTION ALLEGATIONS

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

14. The proposed class is defined as follows:

All current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time during the period from May 25, 2014 to final judgment.

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

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

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

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

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- 1 c. Adequacy: Plaintiff will fairly and adequately protect the interests of
2 each class member, with whom he has a well-defined community of
3 interest and typicality of claims, as demonstrated herein. Plaintiff has no
4 interest that is antagonistic to the other class members. Plaintiff's
5 attorneys, the proposed class counsel, are versed in the rules governing
6 class action discovery, certification, and settlement. Plaintiff has
7 incurred, and during the pendency of this action will continue to incur,
8 costs and attorneys' fees, that have been, are, and will be necessarily
9 expended for the prosecution of this action for the substantial benefit of
10 each class member.
- 11 d. Superiority: A class action is superior to other available methods for the
12 fair and efficient adjudication of this litigation because individual joinder
13 of all class members is impractical.
- 14 e. Public Policy Considerations: Certification of this lawsuit as a class
15 action will advance public policy objectives. Employers of this great
16 state violate employment and labor laws every day. Current employees
17 are often afraid to assert their rights out of fear of direct or indirect
18 retaliation. However, class actions provide the class members who are
19 not named in the complaint anonymity that allows for the vindication of
20 their rights.

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

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

and/or missed altogether) meal periods and rest breaks in violation of California law;

- c. Whether Defendants required Plaintiff and the other class members to work over eight (8) hours per day and/or over forty (40) hours per week, and/or over six (6) days per workweek and failed to pay the legally required overtime compensation to Plaintiff and the other class members;
- d. Whether Defendants failed to properly calculate the regular rate of pay, including, *inter alia*, by failing to include earned commissions, non-discretionary bonuses, monetary and non-monetary incentives, non-discretionary production and/or performance pay, and/or shift differentials in the calculation of the regular rate of pay used to calculate the overtime rate for the payment of overtime wages where Plaintiff and the other class members earned commissions, non-discretionary bonuses, monetary and non-monetary incentives, non-discretionary production and/or performance pay, and/or shift differentials and overtime wages in the same pay period;
- e. Whether Defendants deprived Plaintiff and the other class members of meal and/or rest periods or required Plaintiff and the other class members to work during meal and/or rest periods without compensation;
- f. Whether Defendants failed to pay minimum wages to Plaintiff and the other class members for all hours worked;
- g. Whether Defendant failed to pay a one-hour premium for daily missed, short, or interrupted meal periods and/or rest breaks.
- h. Whether Defendants failed to pay all wages due to Plaintiff and the other class members within the required time upon their discharge or resignation;
- i. Whether Defendants failed to timely pay all wages due to Plaintiff and the other class members during their employment;

- 1 j. Whether Defendants complied with wage reporting as required by the
2 California Labor Code; including, *inter alia*, section 226;
- 3 k. Whether Defendants kept complete and accurate payroll records as
4 required by the California Labor Code, including, *inter alia*, section
5 1174(d);
- 6 l. Whether Defendants failed to reimburse Plaintiff and the other class
7 members for necessary business-related expenses and costs;
- 8 m. Whether Defendants' conduct was willful or reckless;
- 9 n. Whether Defendants engaged in unfair business practices in violation of
10 California Business & Professions Code section 17200, et seq.;
- 11 o. The appropriate amount of damages, restitution, and/or monetary
12 penalties resulting from Defendants' violation of California law; and
- 13 p. Whether Plaintiff and the other class members are entitled to
14 compensatory damages pursuant to the California Labor Code.

15 **PAGA ALLEGATIONS**

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

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

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

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

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

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

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

23. On November 12, 2020, Plaintiff provided written notice by certified mail to the LWDA and to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. Therefore, the administrative prerequisites under California Labor Code section 2699.3(a) to recover civil penalties, including unpaid wages and premium wages per California Labor Code

1 section 558 against Defendants, in addition to other remedies, for violations of California
2 Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198,
3 2800, and 2802 have been satisfied.

4 **GENERAL ALLEGATIONS**

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

7 25. Defendants, jointly and severally, employed Plaintiff as an hourly-paid, non-
8 exempt employee in the position of Production Assistant from approximately April 2015 to
9 approximately August 2015, in the State of California.

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

13 27. Defendants had the authority to hire and terminate Plaintiff and the other class
14 members, to set work rules and conditions governing Plaintiff's and the other class members'
15 employment, and to supervise their daily employment activities.

16 28. Defendants exercised sufficient authority over the terms and conditions of
17 Plaintiff's and the other class members' employment for them to be joint employers of Plaintiff
18 and the other class members.

19 29. Defendants directly hired and paid wages and benefits to Plaintiff and the other
20 class members.

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

23 31. Plaintiff and the other class members worked over eight (8) hours in a day, forty
24 (40) hours, and/or over six (6) days in a workweek in a week during their employment with
25 Defendants.

26 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
27 engaged in a uniform policy and systematic scheme of wage abuse against their hourly-paid or
28 non-exempt employees within the State of California. This scheme involved, *inter alia*, failing

1 to pay them for all hours worked and missed, short, late, or interrupted meal periods and rest
2 breaks in violation of California law.

3 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
4 knew or should have known that Plaintiff and the other class members were entitled to receive
5 certain wages for overtime compensation and that they were not receiving accurate overtime
6 compensation for all overtime hours worked.

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

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

23 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 knew or should have known that Plaintiff and the other class members were entitled to receive
25 all meal periods or payment of one additional hour of pay at Plaintiff's and the other class
26 member's regular rate of pay when a meal period was short, late, interrupted, and/or missed,
27 and they did not receive all meal periods or payment of one additional hour of pay at Plaintiff's
28 and the other class member's regular rate of pay when a meal period was short, late,

1 interrupted, and/or missed.

2 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
3 failed to provide, authorize, and permit Plaintiff and other class members take full,
4 uninterrupted, off-duty rest periods for every shift lasting three and one-half (3.5) to six (6)
5 hours and/or two full, uninterrupted, off-duty rest periods for every shift lasting six (6) to ten
6 (10) hours, and failed to make a good faith effort to authorize, permit, and provide such rest
7 breaks in the middle of each work period.

8 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 knew or should have known that Plaintiff and the other class members were entitled to receive
10 all rest periods or payment of one additional hour of pay at Plaintiff's and the other class
11 member's regular rate of pay when a rest period was short, late, interrupted, and/or missed, and
12 they did not receive all rest periods or payment of one additional hour of pay at Plaintiff's and
13 the other class members' regular rate of pay when a rest period was short, late, interrupted,
14 and/or missed.

15 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants
16 knew or should have known that Plaintiff and the other class members were entitled to receive
17 at least minimum wages for compensation and that they were not receiving at least minimum
18 wages for all hours worked.

19 40. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 knew or should have known that Plaintiff and the other class members were entitled to receive
21 all wages owed to them upon discharge or resignation, including earned but unpaid overtime
22 wages, minimum wages and meal and rest period premiums, and they did not, in fact, receive
23 all such wages owed to them at the time of their discharge or resignation.

24 41. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 knew or should have known that Plaintiff and the other class members were entitled to receive
26 all wages owed to them during their employment. Plaintiff and the other class members did
27 not receive payment of all wages, including overtime and minimum wages and meal and rest
28 period premiums, within any time permissible under California Labor Code section 204.

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

7 43. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 knew or should have known that Defendants had to keep complete and accurate payroll records
9 for Plaintiff and the other class members in accordance with California law, but, in fact, did
10 not keep complete and accurate payroll records.

11 44. Plaintiff is informed and believes, and based thereon alleges, that Defendants
12 knew or should have known that Plaintiff and the other class members were entitled to
13 reimbursement for necessary business-related expenses.

14 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 knew or should have known that they had a duty to compensate Plaintiff and the other class
16 members pursuant to California law, and that Defendants had the financial ability to pay such
17 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
18 represented to Plaintiff and the other class members that they were properly denied wages, all
19 in order to increase Defendants' profits.

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

26 47. During the time period Defendants employed Plaintiff, Defendants failed to
27 properly calculate the regular rate of pay, including, *inter alia*, failing to include non-
28 discretionary bonuses, commissions, monetary and non-monetary incentives, production pay,

1 performance pay, and/or shift differentials in the calculation of the regular rate of pay used to
2 calculate the overtime rate for the payment of overtime wages where Plaintiff and the other class
3 members earned commissions, non-discretionary bonuses, monetary and non-monetary
4 incentives, non-discretionary production and/or performance pay, and/or shift differentials and
5 overtime wages in the same pay period.

6 48. During the relevant time period, Defendants failed to provide all requisite
7 uninterrupted meal and rest periods to Plaintiff and the other class members.

8 49. During the relevant time period, Defendants failed to pay Plaintiff and the other
9 class members at least minimum wages for all hours worked.

10 50. During the relevant time period, Defendants failed to pay Plaintiff and the other
11 class members all wages owed to them upon discharge or resignation.

12 51. During the relevant time period, Defendants failed to pay Plaintiff and the other
13 class members all wages within any time permissible under California law, including, *inter*
14 *alia*, California Labor Code section 204.

15 52. During the relevant time period, Defendants failed to provide complete or
16 accurate wage statements to Plaintiff and the other class members.

17 53. During the relevant time period, Defendants failed to keep complete or accurate
18 payroll records for Plaintiff and the other class members.

19 54. During the relevant time period, Defendants failed to reimburse Plaintiff and the
20 other class members for all necessary business-related expenses and costs.

21 55. During the relevant time period, Defendants failed to properly compensate
22 Plaintiff and the other class members pursuant to California law in order to increase
23 Defendants' profits.

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

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FIRST CAUSE OF ACTION

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

(Against NEW PENN FINANCIAL, LLC, NEWREZ, LLC, and DOES 2 through 100)

57. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 56 and each and every part thereof with the same force and effect as though fully set forth herein.

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

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

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

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

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62. During the relevant time period, Plaintiff and the other class members worked in excess of eight (8) hours in a day, in excess of forty (40) hours in a week, or for the first eight (8) hours worked on the seventh day, including work duties that Defendants required to be performed off-the-clock including, but not limited to, receiving and responding to business-related inquiries, calling borrowers, reviewing documents, answering phones, reading and responding to e-mails, ordering forms and transcripts, and completing assigned tasks.

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

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

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

SECOND CAUSE OF ACTION

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

(Against NEW PENN FINANCIAL, LLC, NEWREZ, LLC, and DOES 2 through 100)

66. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 65, and each and every part thereof with the same force and effect as though fully set forth herein.

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

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

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

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

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

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

1 members' time records regardless of whether a compliant meal period was taken.

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

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

13 75. During the relevant time period, Plaintiff and the other class members who were
14 scheduled to work for a period of time in excess of ten (10) hours, and who did not waive their
15 legally-mandated meal periods by mutual consent, were required to work for periods longer
16 than ten (10) hours without a second uninterrupted meal period of not less than thirty (30)
17 minutes.

18 76. During the relevant time period, Plaintiff and the other class members who were
19 scheduled to work for a period of time in excess of twelve (12) hours were required to work for
20 periods of longer than twelve (12) hours without a second uninterrupted meal period of not less
21 than thirty (30) minutes.

22 77. During the relevant time period, Defendants intentionally and willfully required
23 Plaintiff and the other class members to work during meal periods and failed to compensate
24 Plaintiff and the other class members the full meal period premium for work performed during
25 meal periods. During the relevant time period, Plaintiff's and the other class members' meal
26 periods were short, late, interrupted, and/or missed because Defendants required them to
27 perform work duties including, but not limited to, receiving and responding to business-related
28 inquiries, calling borrowers, reviewing documents, answering phones, reading and responding

1 to e-mails, ordering forms and transcripts, and completing assigned tasks.

2 78. During the relevant time period, Defendants failed to pay Plaintiff and the other
3 class members the full meal period premium due pursuant to California Labor Code section
4 226.7.

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

7 80. Pursuant to applicable IWC Wage Order and California Labor Code section
8 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one
9 additional hour of pay at the employee's regular rate of compensation for each work day that
10 the meal or rest period is not provided.

11 **THIRD CAUSE OF ACTION**

12 **(Violation of California Labor Code § 226.7)**

13 **(Against NEW PENN FINANCIAL, LLC, NEWREZ, LLC, and DOES 2 through 100)**

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

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

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

23 84. At all relevant times, the applicable IWC Wage Order provides that "[e]very
24 employer shall authorize and permit all employees to take rest periods, which insofar as
25 practicable shall be in the middle of each work period" and that the "rest period time shall be
26 based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
27 hours or major fraction thereof" unless the total daily work time is less than three and one-half
28 (3 ½) hours.

1 85. During the relevant time period, Defendants required Plaintiff and other class
2 members to work four (4) or more hours without authorizing or permitting a ten (10) minute
3 rest period per each four (4) hour period worked or major fraction thereof.

4 86. During the relevant time period, Plaintiff's and the other class members' rest
5 periods were missed, short, late, and/or interrupted because Defendants required them to
6 perform work duties including, but not limited to, receiving and responding to business-related
7 inquiries, calling borrowers, reviewing documents, answering phones, reading and responding
8 to e-mails, ordering forms and transcripts, and completing assigned tasks.

9 87. As a result, Defendants failed to provide, authorize, or permit Plaintiff and the
10 other class members to take a full, uninterrupted, off-duty rest period for every shift lasting
11 three and one-half (3.5) to six (6) hours and/or two full, uninterrupted, off-duty rest periods
12 for every shift lasting six (6) to ten (10) hours and/or three full, uninterrupted, off-duty rest
13 periods for every shift lasting ten (10) to fourteen (14) hours, and failed to make a good faith
14 effort to authorize, permit, and provide such rest breaks in the middle of each work period.

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

18 89. During the relevant time period, Defendants failed to pay Plaintiff and the other
19 class members the full rest period premium due pursuant to California Labor Code section
20 226.7

21 90. Defendants' conduct violates applicable IWC Wage Orders and California
22 Labor Code section 226.7.

23 91. Pursuant to the applicable IWC Wage Orders and California Labor Code section
24 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one
25 additional hour of pay at the employees' regular hourly rate of compensation for each work
26 day that the rest period was not provided.

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FOURTH CAUSE OF ACTION

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

(Against NEW PENN FINANCIAL, LLC, NEWREZ, LLC, and DOES 2 through 100)

92. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 91, and each and every part thereof with the same force and effect as though fully set forth herein.

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

94. During the relevant time period, Defendants failed to pay minimum wage to Plaintiff and the other class members as required, pursuant to California Labor Code sections 1194, 1197, and 1197.1.

95. During the relevant time period, Defendants required Plaintiff and the other class members to perform job duties off-the-clock for which they were paid an effective rate of zero (0) dollars an hour, including, but not limited to, receiving and responding to business-related inquiries, calling borrowers, reviewing documents, answering phones, reading and responding to e-mails, ordering forms, and completing assigned tasks.

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

97. Pursuant to California Labor Code section 1197.1, Plaintiff and the other class members are entitled to recover a penalty of \$100.00 for the initial failure to timely pay each employee minimum wages, and \$250.00 for each subsequent failure to pay each employee minimum wages.

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

(Against NEW PENN FINANCIAL, LLC, NEWREZ, LLC, and DOES 2 through 100)

99. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 98, and each and every part thereof with the same force and effect as though fully set forth herein.

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

101. During the relevant time period, Plaintiff and the other class members were required to perform job duties off the clock, including, receiving and responding to business-related inquiries, calling borrowers, reviewing documents, answering phones, reading and responding to e-mails, ordering forms, and completing assigned tasks.

102. During the relevant time period, Plaintiff and the other class members were not compensated at the overtime, regular, or minimum wage for the time they spent performing job duties off the clock.

103. During the relevant time period, Plaintiff and the other class members were not paid overtime wages owed to them for all the time they spent performing job duties off the clock in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day of work.

11

1 104. During the relevant time period, Plaintiff and the other class members meal
2 periods were missed, short, late, and/or interrupted because Defendants required them to
3 perform work duties, including, but not limited to, receiving and responding to business-related
4 inquiries, calling borrowers, reviewing documents, answering phones, reading and responding
5 to e-mails, ordering forms, and completing assigned tasks.

6 105. During the relevant time period, Plaintiff and the other class members' rest
7 periods were missed, short, late, and/or interrupted because Defendants required them to
8 perform work duties, including, receiving and responding to business-related inquiries, calling
9 borrowers, reviewing documents, answering phones, reading and responding to e-mails,
10 ordering forms, and completing assigned tasks.

11 106. During the relevant time period, Plaintiff and the other class members were not
12 paid the full meal period premium for work performed during meal periods, which were due
13 pursuant to California Labor Code section 226.7.

14 107. During the relevant time period, Plaintiff and other class members were not paid
15 the full rest period premium for work performed during rest periods, which were due pursuant
16 to California Labor Code section 226.7.

17 108. As a result, during the relevant time period, Plaintiff and the other class
18 members did not receive all of their wages, earned and unpaid, within seventy-two (72) hours
19 of leaving Defendants' employ.

20 109. During the relevant time period, Defendants intentionally and willfully failed to
21 pay Plaintiff and the other class members who are no longer employed by Defendants their
22 wages, earned and unpaid, within seventy-two (72) hours of their leaving Defendants' employ.

23 110. Defendants' failure to pay Plaintiff and the other class members who are no
24 longer employed by Defendants' their wages, earned and unpaid, within seventy-two (72)
25 hours of their leaving Defendants' employ, is in violation of California Labor Code sections
26 201 and 202.

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

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

SIXTH CAUSE OF ACTION

(Violation of California Labor Code § 204)

(Against NEW PENN FINANCIAL, LLC, NEWREZ, LLC, and DOES 2 through 100)

113. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 112, and each and every part thereof with the same force and effect as though fully set forth herein.

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

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

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

117. During the relevant time period, Plaintiff and the other class members were required to perform job duties off the clock, including, receiving and responding to business-related inquiries, calling borrowers, reviewing documents, answering phones, reading and

1 responding to e-mails, ordering forms, and completing assigned tasks.

2 118. During the relevant time period, Plaintiff and the other class members were not
3 compensated at the overtime, regular, or minimum wage for the time they spent performing job
4 duties off the clock.

5 119. During the relevant time period, Plaintiff and the other class members were not
6 paid overtime wages owed to them for all the time they spent performing job duties off the
7 clock in excess of eight (8) hours in a day or forty (40) hours in a week or for the first eight (8)
8 hours worked on the seventh day of work.

9 120. During the relevant time period, Plaintiff and the other class members meal
10 periods were missed, short, late, and/or interrupted because Defendants required them to
11 perform work duties, including, but not limited to, receiving and responding to business-related
12 inquiries, calling borrowers, reviewing documents, answering phones, reading and responding
13 to e-mails, ordering forms, and completing assigned tasks.

14 121. During the relevant time period, Plaintiff and the other class members' rest
15 periods were missed, short, late, and/or interrupted because Defendants required them to
16 perform work duties, including, receiving and responding to business-related inquiries, calling
17 borrowers, reviewing documents, answering phones, reading and responding to e-mails,
18 ordering forms, and completing assigned tasks.

19 122. During the relevant time period, Plaintiff and the other class members were not
20 paid the full meal period premium for work performed during meal periods, which were due
21 pursuant to California Labor Code section 226.7.

22 123. During the relevant time period, Plaintiff and other class members were not paid
23 the full rest period premium for work performed during rest periods, which were due pursuant
24 to California Labor Code section 226.7.

25 124. As a result, during the relevant time period, Defendants intentionally and
26 willfully failed to pay Plaintiff and the other class members all wages due to them, within any
27 time period permissible under California Labor Code section 204.

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

3 **SEVENTH CAUSE OF ACTION**

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

5 **(Against NEW PENN FINANCIAL, LLC, NEWREZ, LLC, and DOES 2 through 100)**

6 126. Plaintiff incorporates by reference the allegations contained in paragraphs 1
7 through 125, and each and every part thereof with the same force and effect as though fully set
8 forth herein.

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

23 128. Defendants have intentionally and willfully failed to provide Plaintiff and the
24 other class members with complete and accurate wage statements. The deficiencies include,
25 but are not limited to: the failure to include the accurate total number of hours worked and the
26 accurate gross/net wages earned by Plaintiff and the other class members. Because Plaintiffs'
27 and the other class members' wage statements did not reflect this information, Plaintiffs and
28 the other class members were unable to determine the total amount they were owed, and were

1 unable to verify whether they were paid the proper amount. In order to determine how much
2 Plaintiffs and the other class members should have been paid, Plaintiffs and the other class
3 members would have had to engage in discovery and mathematical computations in order to
4 reconstruct the missing information.

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

8 130. More specifically, Plaintiff and the other class members have been injured by
9 Defendants' intentional and willful violation of California Labor Code section 226(a) because
10 they were denied both their legal right to receive, and their protected interest in receiving,
11 accurate and itemized wage statements pursuant to California Labor Code section 226(a).

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

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

18 **EIGHTH CAUSE OF ACTION**

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

20 **(Against NEW PENN FINANCIAL, LLC, NEWREZ, LLC, and DOES 2 through 100)**

21 133. Plaintiff incorporates by reference the allegations contained in paragraphs 1
22 through 132, and each and every part thereof with the same force and effect as though fully set
23 forth herein.

24 134. Pursuant to California Labor Code section 1174(d), an employer shall keep, at a
25 central location in the state or at the plants or establishments at which employees are
26 employed, payroll records showing the hours worked daily by and the wages paid to, and the
27 number of piece-rate units earned by and any applicable piece rate paid to, employees
28 employed at the respective plants or establishments. These records shall be kept in accordance

1 with rules established for this purpose by the commission, but in any case shall be kept on file
2 for not less than two years.

3 135. Defendants have intentionally and willfully failed to keep accurate and complete
4 payroll records showing the accurate hours worked daily and the wages paid, to Plaintiff and
5 the other class members.

6 136. As a result of Defendants' violation of California Labor Code section 1174(d),
7 Plaintiff and the other class members have suffered injury and damage to their statutorily-
8 protected rights.

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

13 **NINTH CAUSE OF ACTION**

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

15 **(Against NEW PENN FINANCIAL, LLC, NEWREZ, LLC, and DOES 2 through 100)**

16 138. Plaintiff incorporates by reference the allegations contained in paragraphs 1
17 through 137, and each and every part thereof with the same force and effect as though fully set
18 forth herein.

19 139. Pursuant to California Labor Code sections 2800 and 2802, an employer must
20 reimburse its employee for all necessary expenditures incurred by the employee in direct
21 consequence of the discharge of his or her job duties or in direct consequence of his or her
22 obedience to the directions of the employer.

23 140. Plaintiff and the other class members incurred necessary business-related
24 expenses and costs in direct consequence of the discharge of their job duties or in direct
25 consequence of their obedience to the directions of Defendants that were not fully reimbursed
26 by Defendants, including, but not limited, the use of personal phones for business-related
27 matters and the purchase of office supplies.

28 ///

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

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

TENTH CAUSE OF ACTION

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

(Against NEW PENN FINANCIAL, LLC, NEWREZ, LLC, and DOES 2 through 100)

143. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 142, and each and every part thereof with the same force and effect as though fully set forth herein.

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

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

146. A violation of California Business & Professions Code section 17200, et seq. may be predicated on the violation of any state or federal law. In this instant case, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work overtime without paying them proper compensation violate California Labor Code sections 510 and 1198. Additionally, Defendants' policies and practices of requiring employees, including Plaintiff and the other class members, to work through their meal and rest periods without paying them proper compensation violate California Labor Code sections 226.7 and 512(a). Defendants' policies and practices of failing to pay minimum wages violate California Labor Code sections 1194, 1197, and 1197.1. Moreover, Defendants' policies and

1 practices of failing to timely pay wages to Plaintiff and the other class members violate
2 California Labor Code sections 201, 202 and 204. Defendants also violated California Labor
3 Code sections 226(a), 1174(d), 2800 and 2802.

4 147. As a result of the herein described violations of California law, Defendants
5 unlawfully gained an unfair advantage over other businesses.

6 148. Plaintiff and the other class members have been personally injured by
7 Defendants' unlawful business acts and practices as alleged herein, including but not
8 necessarily limited to the loss of money and/or property.

9 149. Pursuant to California Business & Professions Code sections 17200, et seq.,
10 Plaintiff and the other class members are entitled to restitution of the wages withheld and
11 retained by Defendants during a period that commences May 25, 2014; an award of attorneys'
12 fees pursuant to California Code of Civil procedure section 1021.5 and other applicable laws;
13 and an award of costs.

14 **ELEVENTH CAUSE OF ACTION**

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

16 **(Against NEW PENN FINANCIAL, LLC, NEWREZ, LLC, and DOES 2 through 100)**

17 150. Plaintiff incorporates by reference the allegations contained in paragraphs 1
18 through 149, and each and every part thereof with the same force and effect as though fully set
19 forth herein.

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

25 152. Whenever the LWDA, or any of its departments, divisions, commissions,
26 boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action
27 is authorized to exercise the same discretion, subject to the same limitations and conditions, to
28 assess a civil penalty.

154. Defendants' failure to pay overtime in violation of the Wage Orders and California Labor Code sections 510 and 1198, as alleged above, constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 510 and 1198.

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

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

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

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

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

activity prohibited by California Labor Code section 204.

Failure to Provide Compliant Wage Statements

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

Failure to Keep Complete or Accurate Payroll Records

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

Failure to Reimburse Necessary Business Expenses

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

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

- a. Penalties under California Labor Code section 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- b. Penalties under California Code of Regulations Title 8 section 11010, *et seq.* in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;

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c. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation; and

d. Any and all additional penalties and sums as provided by the California Labor Code and/or other statutes.

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

165. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable statute.

DEMAND FOR JURY TRIAL

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

PRAYER FOR RELIEF

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

Class Certification

2. That this action be certified as a class action;

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1 3. That Plaintiff be appointed as the representative of the Class with respect to the
2 first ten causes of action;

3 4. That counsel for Plaintiff be appointed as Class Counsel; and

4 5. That Defendants provide to Class Counsel immediately the names and most
5 current/last known contact information (address, e-mail and telephone numbers) of all class
6 members.

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

8 6. That the Court declare, adjudge and decree that Defendants violated California
9 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay
10 all overtime wages due to Plaintiff and the other class members;

11 7. For general unpaid wages at overtime wage rates and such general and special
12 damages as may be appropriate;

13 8. For pre-judgment interest on any unpaid overtime compensation commencing
14 from the date such amounts were due;

15 9. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
16 California Labor Code section 1194; and

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

18 **As to the Second Cause of Action**

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

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

26 13. For all actual, consequential, and incidental losses and damages, according to
27 proof;

28 14. For premium wages pursuant to California Labor Code section 226.7(b);

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

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

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

5 **As to the Third Cause of Action**

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

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

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

14 21. For premium wages pursuant to California Labor Code section 226.7(b);

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

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

18 **As to the Fourth Cause of Action**

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

22 25. For general unpaid wages and such general and special damages as may be
23 appropriate;

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

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

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

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

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

As to the Fifth Cause of Action

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

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

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

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

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

As to the Sixth Cause of Action

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

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

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

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

As to the Seventh Cause of Action

40. That the Court declare, adjudge and decree that Defendants violated the record keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders

as to Plaintiff and the other class members, and willfully failed to provide accurate itemized wage statements thereto;

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

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

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

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

As to the Eighth Cause of Action

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

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

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

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

As to the Ninth Cause of Action

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

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

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

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

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

As to the Tenth Cause of Action

54. That the Court decree, adjudge and decree that Defendants violated California Business and Professions Code sections 17200, et seq. by failing to provide Plaintiff and the other class members all overtime compensation due to them, failing to provide all meal and

rest periods to Plaintiff and the other class members, failing to pay at least minimum wages to Plaintiff and the other class members, failing to pay Plaintiff's and the other class members' wages timely as required by California Labor Code section 201, 202 and 204 and by violating California Labor Code sections 226(a), 1174(d), 2800 and 2802.

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

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

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

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

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

As to the Eleventh Cause of Action

60. For civil penalties and wages pursuant to California Labor Code sections 2699(a), (f) and (g) plus costs and attorneys' fees for violation of California Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512(a), 1174, 1194, 1197, 1197.1, 1198, 2800, and 2802; and

61. For such other and further relief as the Court may deem equitable and appropriate.

Dated: February 11, 2021

LAWYERS for JUSTICE, PC

By: _____
Edwin Aiwazian
Attorneys for Plaintiff

EXHIBIT 2

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.