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

RYLAND GIMENEZ and STEPHEN
GIMENEZ, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

ALACRITY SOLUTIONS GROUP, LLC
f/k/a WORLEY CLAIMS SERVICES, LLC,
Defendant.

Case No. 30-2020-01175645-CU-OE-CXC

**[PROPOSED] ORDER AND FINAL
JUDGMENT APPROVING SETTLEMENT
PURSUANT TO PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

Assigned for All Purposes To: Judge Peter J.
Wilson

Date: June 2, 2022
Time: 2:00 p.m.
Dept: CX102

Date Action Filed: December 22, 2020
Trial Date: Not Set

The Unopposed Motion for Approval of PAGA Settlement came on for a hearing on June 2, 2022 at 2:00 p.m. in Department CX102 of this Court, located at 751 West Santa Ana Blvd., Santa Ana, CA 92701. Counsel for the parties appeared.

The Court, having considered the proposed Settlement Agreement and Release (“Settlement Agreement”), attached to the Declaration of Chauniqua D. Young; the Motion for Approval of PAGA Settlement; the memorandum of points and authorities and declarations submitted in support thereof, and GOOD CAUSE appearing, HEREBY ORDERS THE FOLLOWING:

This Order incorporates by reference the definitions in the Settlement Agreement and all terms defined therein shall have the same meaning in this Order.

1. The Court finds that the Settlement Agreement (**Exhibit A**) has been submitted to the Labor Workforce Development Agency (“LWDA”) in conformity with California Labor Code § 2699(1)(2), and that the LWDA has not sought to intervene or appear in the Action.

2. The PAGA Settlement Members covered by the Settlement consist of the following individuals: 127 persons who performed adjusting services under contract with

1 Defendant as an Independent Adjuster in California at any time from July 2, 2019 through
2 September 30, 2021.

3 3. The Court finds that the parties reached the Settlement as a result of arms-length
4 negotiations and that the settlement is fair, reasonable and adequate in view of PAGA's purposes
5 to remediate present labor law violations, deter future ones, and to maximize enforcement of state
6 labor laws. *See Moniz v. Adecco USA, Inc.*, 72 Cal. App. 5th 56, 77 (2021).

7 4. Pursuant to California Labor Code § 2699(l)(2), the Court has reviewed the sum
8 allocated for payment of penalties under PAGA ("Net Settlement Amount"), and determined that
9 the Net Settlement Amount is fair, just, reasonable, and adequate. The Court hereby approves the
10 Net Settlement Amount. The Net Settlement Amount shall be \$108,198.08, which equals the
11 Total Settlement Amount (\$200,000) less the approved Attorneys' Fees and Costs, Service
12 Payment, and Settlement Administrators' Fees and Costs. Seventy-five percent (75%)
13 (\$81,148.56) of the Net Settlement Amount shall be distributed to the LWDA ("LWDA
14 Payment") and twenty-five percent (25%) (\$27,049.52) of the Net Settlement Amount shall be
15 distributed to the PAGA Settlement Members ("PAGA Distribution Fund") in accordance with
16 this Order and Judgment and the Settlement Agreement.

17 5. The Court hereby directs the Settlement Administrator to administer the
18 Settlement and to make the payments as provided by the Settlement Agreement.

19 6. The Court approves the payment of \$66,666.67 to Outten & Golden LLP and the
20 Kennedy Law Firm LLP for attorneys' fees and \$17,635.25 for reimbursement of costs incurred.

21 7. The Court approves the payment of \$3,500 to the Settlement Administrator,
22 Phoenix Settlement Administrators, for Administrator Costs, which the Settlement Administrator
23 shall pay itself in accordance with the Settlement Agreement.

24 8. The Court approves the Service Payment in the amount of \$4,000 to Plaintiff
25 Ryland Gimenez.

26 9. The Court has reviewed and approves the PAGA Check Enclosure Letter, **Exhibit**
27 **B**, for distribution to the PAGA Settlement Members.

1 10. The Effective Date is 61 days after the Court approves the Settlement if there are
2 no appeals. Defendant is directed to pay the Total Settlement Amount into the Qualified
3 Settlement Fund within 7 calendar days of the Effective Date.

4 11. The Settlement Administrator will cause payments to be made to Plaintiff, the
5 LWDA, and Plaintiffs' Counsel within fourteen days of the Effective Date. The Settlement
6 Administrator will cause payments to be made to PAGA Settlement Members within thirty
7 calendar days of the Effective Date.

8 12. Settlement Checks issued to PAGA Settlement Members that are not cashed within
9 180 days following the issuance of the checks will be paid to the State of California Unclaimed
10 Property Fund.

11 13. Upon the Effective Date, each PAGA Settlement Member, including Plaintiff, will
12 fully release the Released Parties of the Released PAGA Claims, as set forth in the Settlement
13 Agreement.

14 14. Notice of this Order and Judgment shall be given to the LWDA by submission
15 through the online system established for the filing of notices and documents, in conformity with
16 California Labor Code § 2699(1)(3).

17 15. The Final Accounting Hearing will take place on March 17, 2023 at 9:00 a.m.
18 Plaintiff shall file a final report five court days prior to the final accounting, which will include
19 the actual amounts paid to PAGA Settlement Members, and the other amounts distributed under
20 the settlement, including uncashed checks.

21 16. At the Final Accounting Hearing, final judgment shall be entered in accordance
22 with this Order and the Settlement Agreement and this action will be dismissed with prejudice
23 and as to all parties as set forth in the Settlement Agreement, except that the class claims alleged
24 by Plaintiff Stephen Gimenez are dismissed without prejudice as set forth in the Order Granting
25 Request for Dismissal Pursuant to California Rule of Court 3.770.

1 17. Without affecting the finality of the Court's judgment in any way, the Court will
2 retain continuing jurisdiction over this matter pursuant to CCP § 664.6. Nothing herein will
3 preclude any action to enforce the parties' obligations under the Settlement Agreement.
4

5 **IT IS SO ORDERED.**
6

7 DATED: _____

Hon. Judge Peter J. Wilson
Judge of the Superior Court

Exhibit A

Jahan Sagafi (SBN 224887)
Molly Frandsen (Cal. Bar No. 320094)
OUTTEN & GOLDEN LLP
One California Street, 12th Floor
San Francisco, CA 94111
Telephone: (415) 638-8800
Facsimile: (415) 638-8810
E-Mail: jsagafi@outtengolden.com
E-Mail: mfrandsen@outtengolden.com

Chauniqua Young (*admitted pro hac vice*)
OUTTEN & GOLDEN LLP
685 Third Avenue, 25th Floor
New York, NY 10017
Telephone: (212) 245-1000
Facsimile: (646) 509-2002
E-Mail: cyoung@outtengolden.com

[Additional attorneys on following page]

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

RYLAND GIMENEZ and STEPHEN
GIMENEZ, on behalf of themselves and all
others similarly situated,

Plaintiffs,

Plaintiff,

v.

ALACRITY SOLUTIONS GROUP, LLC f/k/a
WORLEY CLAIMS SERVICES, LLC,

Defendant.

Case No. 30-2020-01175645-CU-OE-CXC

Assigned for all purposes to the Honorable
Judge Peter Wilson

**PAGA REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT AND
RELEASE**

Date Action Filed: September 22, 2020

1 Galvin Kennedy (*admitted pro hac vice*)
2 KENNEDY LAW FIRM LLP
3 2925 Richmond Ave., Suite 1200
4 Houston, TX 77098
5 Telephone: (713) 425-6445
6 Facsimile: (888) 535-9271
7 E-Mail: galvin@kennedyattorney.com

8 *Attorneys for Plaintiffs, the Proposed Class, and*
9 *Aggrieved Employees*

10 James F. Speyer (No. 133114)
11 David J. Reis (No. 155782)
12 Arnold & Porter Kaye Scholer LLP
13 Three Embarcadero Center, 10th Floor
14 San Francisco, CA 94111
15 Telephone: (415) 471-3100
16 Facsimile: (415) 471-3400
17 E-Mail: James.speyer@arnoldporter.com
18 E-Mail: David.reis@arnoldporter.com

19 *Attorneys for Defendant*
20
21
22
23
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1 This PAGA Representative Settlement Agreement and Release is made and entered into between
2 (1) Ryland Gimenez and Stephen Gimenez (“Plaintiffs”); and (2) Alacrity Solutions Group, LLC f/k/a
3 Worley Claims Services, LLC (“Defendant”) (referred to collectively as the “Parties”), subject to
4 approval from the Court, as provided below.

5 The Parties intend this PAGA Representative Action Settlement Agreement and Release to fully,
6 finally, and forever resolve, discharge, and settle the Released PAGA Claims, upon and subject to the
7 terms and conditions hereof, as follows:

8 **1. DEFINITIONS**

9 **1.1** “**Action**” refers to the civil action titled *Gimenez v. Alacrity Solutions Group,*
10 *LLC f/k/a Worley Claims Services, LLC*, Orange County Superior Court Case Number 30-2020-
11 01175645-CU-OE-CXC.

12 **1.2** “**Administration Costs**” refers to the amount to be paid to the Settlement
13 Administrator for costs associated with administration of the settlement contemplated by this
14 Agreement, including costs for, among other things, printing, copying, formatting, translation of
15 materials, postage, envelopes, computer searches to locate addresses, calculation of payments to
16 individual PAGA Settlement Members, calculation of applicable withholdings and taxes (if required by
17 law), costs associated with the process for any uncashed settlement checks, and any other expenses the
18 Settlement Administrator incurs to complete the settlement process according to the terms of this
19 Agreement.

20 **1.3** “**Agreement**” or “**Settlement**” refers to this PAGA Representative Action
21 Settlement Agreement and Release.

22 **1.4** “**Approval Order**” refers to the order issued and entered by the Court following a
23 motion for approval of this Settlement.

24 **1.5** “**Complaint**” refers to the operative complaint filed in the Action on April 28,
25 2021 and titled “Second Amended Class Action and PAGA Complaint.”

26 **1.6** “**Defendant**” refers to Alacrity Solutions Group, LLC f/k/a Worley Claims
27 Services, LLC.
28

1 **1.7 “Defendant’s Counsel”** refers to Arnold & Porter Kaye Scholer LLP. For
2 purposes of providing any notices required under this Settlement, Defendant’s Counsel shall refer to:
3 David J. Reis and James F. Speyer, Arnold & Porter Kaye Scholer LLP, 3 Embarcadero Center, San
4 Francisco, CA 94111.

5 **1.8 “Effective Date”** refers to the date upon which both of the following have
6 occurred: (i) approval of the Settlement is granted by the California Superior Court, County of Orange,
7 or other court assuming jurisdiction of this matter, and (ii) the Court’s Judgment approving the
8 Settlement becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Court’s
9 Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the
10 expiration of the time to file a petition for writ of certiorari to the United States Supreme Court or
11 California Supreme Court; (ii) if a petition for writ of certiorari is filed, the date of denial of the petition
12 for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal
13 is filed, the expiration date of the time for filing or noticing any appeal of the Judgment; *i.e.*, sixty (60)
14 days from entry of the Judgment. No money will be distributed unless and until the Effective Date
15 occurs.

16 **1.9 “Eligible Pay Periods”** refers to a pay period during the PAGA Period in which a
17 PAGA Settlement Member performed adjusting services under contract with Defendant or received
18 compensation for performing adjusting services under contract with Defendant.

19 **1.10 “Gross Settlement Amount”** refers to the maximum settlement payment
20 Defendant may be obligated to make in connection with the Settlement, which in this case is no more
21 than \$200,000.00. This sum shall include all Individual Settlement Payments made to PAGA Settlement
22 Members, Administration Costs, the Service Award, the LWDA Payment, and Attorneys’ Fees and
23 Costs, as set forth below. No portion of the Gross Settlement Amount shall revert to Defendant.

24 **1.11 “Individual Settlement Payment”** refers to the amount calculated by the
25 Settlement Administrator to be distributed to each individual PAGA Settlement Member, which in the
26 aggregate shall total twenty-five percent (25%) of the Net Settlement Amount.

27 **1.12 “Judgment”** refers to the final judgment by the Court after approval of the
28 Settlement.

1 **1.13** “**LWDA**” refers to the California Labor & Workforce Development Agency.

2 **1.14** “**LWDA Payment**” refers to the seventy-five percent (75%) of the Net Settlement
3 Amount that constitutes the LWDA’s share of the settlement of civil penalties paid under this Settlement
4 pursuant to the PAGA.

5 **1.15** “**Named Plaintiff**” refers to Plaintiff Ryland Gimenez.

6 **1.16** “**Net Settlement Amount**” refers to the Gross Settlement Amount minus the
7 Administration Costs, Attorneys’ Fees and Costs, and Service Award. The Net Settlement Amount shall
8 include all Individual Settlement Payments due to PAGA Settlement Members and the LWDA Payment.
9 The Net Settlement Amount is the maximum amount that shall be available for distribution to the
10 LWDA and PAGA Settlement Members.

11 **1.17** “**PAGA**” refers to the Private Attorneys General Act of 2004.

12 **1.18** “**PAGA Check Enclosure Letter**” refers to the letter which the Settlement
13 Administrator shall mail to the PAGA Settlement Members, including Named Plaintiff, together with
14 their Settlement Checks, a copy of which is attached as **Exhibit A**.

15 **1.19** “**PAGA Distribution Fund**” refers to the twenty-five percent (25%) of the Net
16 Settlement Amount that will be distributed to PAGA Settlement Members.

17 **1.20** “**PAGA Period**” refers to the period of July 2, 2019 through the date that the
18 Courts enters the Approval Order.

19 **1.21** “**PAGA Settlement Members**” refers to the 127 persons who performed
20 adjusting services under contract with Defendant as an Independent Adjuster in California at any time
21 from July 2, 2019 through September 30, 2021, as reflected in the November 11, 2021 email from
22 Defendant’s Counsel to Plaintiffs’ Counsel and the accompanying spreadsheet.

23 **1.22** “**PAGA Settlement Member**” refers to individual PAGA Settlement Members.

24 **1.23** “**Parties**” refers to Plaintiffs and Defendant.

25 **1.24** “**Plaintiffs**” refers to Named Plaintiff and Stephen Gimenez.

26 **1.25** “**Plaintiffs’ Counsel**” refers to the Kennedy Law Firm LLP and Outten & Golden
27 LLP. For purposes of providing any notices required under this Settlement, Plaintiffs’ Counsel shall
28

refer to Jahan Sagafi, Outten & Golden LLP, One California Street, 12th Floor, San Francisco, CA 94111.

1.26 “Qualified Settlement Fund” or “QSF” refers to the account established by the Settlement Administrator for the Gross Settlement Amount paid by Defendant. The QSF will be controlled by the Settlement Administrator subject to the terms of this Agreement and the Court’s Approval Order. Interest, if any, earned on the QSF shall become part of the Total Settlement Amount.

1.27 “Released PAGA Claims” refers to claims for PAGA civil penalties under the California Labor Code, Wage Orders, regulations and/or other provisions of law pled or that could have been pled based on the facts alleged in the Action, including but not limited to claims for PAGA civil penalties based on alleged violations of California Labor Code sections 201-204, 218.5, 226, 226.7, 226.8, 510, 512, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, 2698, *et seq.*, and California Industrial Welfare Commission Wage Order No. 4-2001, with respect to PAGA Settlement Members during the PAGA Period.

1.28 “Released Parties” refers to Defendant and its past, present, and future subsidiaries, parents, affiliates, officers, directors, employees, and agents.

1.29 “Service Award” refers to any payment that the Court awards to Named Plaintiff for his effort in prosecuting the Action on behalf of the PAGA Settlement Members and in exchange for his signing a general release of claims.

1.30 “Settlement Administrator” refers to the third-party administrator, who the Parties mutually select, subject to Court approval, to perform the settlement administration and distribution of payment functions further described in this Settlement.

1.31 “Settlement Checks” refers to checks issued to PAGA Settlement Members for their Individual Settlement Payment, calculated in accordance with this Agreement.

2. PROCEDURAL HISTORY AND RECITALS

2.1 The Action. On December 22, 2020, Named Plaintiff submitted a letter to the LWDA alleging that Defendant had engaged in various violations of the California Labor Code. On that same day, Plaintiffs filed a class action complaint in Orange County Superior Court, Case No. 30-2020-01175645-CU-OE-CXC. On March 1, 2021, Named Plaintiff filed a First Amended Complaint,

1 amending the previous version, and alleging PAGA claims for civil penalties. On April 28, 2021,
2 Named Plaintiff amended the First Amended Complaint by filing the operative Complaint.

3 **2.2 Plaintiffs' Counsel's Investigation.** Plaintiffs' Counsel thoroughly investigated
4 the claims against Defendant in the Action and analyzed all applicable defenses raised by Defendant.
5 Plaintiffs' Counsel also engaged in formal and informal discovery and obtained the production of
6 relevant documentation and data from Defendant to allow Plaintiffs' Counsel to further investigate and
7 evaluate the claims and defenses in this Action.

8 **2.3 Defendant's Denials.** Defendant denies and continues to deny: (a) all of the
9 allegations made in the Action; (b) that it violated any applicable laws; and (c) that it is liable or owes
10 damages, penalties, or other compensation or remedies to anyone with respect to the alleged facts or
11 claims asserted in the Action. Defendant emphasizes that the Court has not made any findings of
12 liability as to Defendant. Nonetheless, without admitting or conceding any liability or wrongdoing
13 whatsoever and without admitting or conceding that representative treatment is appropriate for any
14 purpose other than settlement purposes alone, Defendant has agreed to settle the Action to avoid the
15 burden, expense, and uncertainty of continuing the Action. Any stipulations or statements by Defendant
16 contained in this Settlement are made for settlement purposes only.

17 **2.4 Negotiation of Settlement.** Plaintiffs' Counsel engaged in arms-length
18 negotiations with Defendant at a mediation on January 27, 2022, conducted by the Honorable Jay
19 Gandhi (Ret.), with a view toward achieving substantial benefits for the PAGA Settlement Members and
20 the State of California, while avoiding the cost, delay, and uncertainty of further litigation, and reaching
21 a settlement in principle on that date, which has been formally reduced to writing herein.

22 **2.5 Plaintiffs' Counsel's Evaluation.** Based on Plaintiffs' Counsel's investigation
23 and evaluation, Plaintiffs' Counsel is of the opinion that the terms set forth in this Settlement are fair,
24 reasonable, adequate, and in the best interest of the PAGA Settlement Members. Plaintiffs' Counsel is
25 of the belief that the risk of further litigation resulting in no recovery of any relief or a recovery of less
26 than the full value of the claims for Named Plaintiff and PAGA Settlement Members was a significant
27 factor in determining that this Settlement is fair, reasonable, and adequate.
28

1 **2.6 The Parties' Intent.** It is the desire of the Parties to fully, finally, and forever
2 settle, compromise, and discharge any and all claims, rights, demands, charges, complaints, causes of
3 action, obligations or liability of any and every kind that were or could have been asserted in the Action.

4 **2.7 The Parties' Agreement to Cooperate.** The Parties agree to cooperate and to
5 take all steps necessary and appropriate to effectuate all aspects of this Settlement.

6 **3. SETTLEMENT ADMINISTRATOR**

7 **3.1 Settlement Administrator.** The Parties shall request that the Court appoint
8 Phoenix Settlement Administrators as Settlement Administrator. All disputes relating to the Settlement
9 Administrator's performance of its duties, after good-faith efforts by the Parties to first resolve such
10 disputes, will be referred to the Court, if necessary, which will have continuing jurisdiction over this
11 Settlement until all payments and obligations contemplated by this Settlement have been fully
12 completed.

13 **3.2 Responsibilities of the Settlement Administrator.** The Settlement
14 Administrator shall be responsible for: preparing, printing, calculating, and/or disseminating to PAGA
15 Settlement Members the PAGA Check Enclosure Letter and Settlement Checks; performing a skip trace
16 up to two (2) times and resending, within one day of receipt, any Settlement Checks returned without a
17 forwarding address or resending to those with a new forwarding address; responding to requests or
18 communications made by the Parties; preparing, sending, and/or wire transferring Plaintiffs' Counsel's
19 approved Costs and Fees; mailing the Service Payment in accordance with this Agreement and the
20 Approval Order; remitting the LWDA Payment to the LWDA; referring to Plaintiffs' Counsel all
21 matters not within the Settlement Administrator's duties relating to PAGA Settlement Members;
22 responding to inquiries of Plaintiffs' Counsel and Defendant's Counsel consistent with the Settlement
23 Administrator's duties specified herein; promptly apprising counsel for the Parties of the activities of the
24 Settlement Administrator; maintaining adequate records of its activities, including the dates of mailings
25 and re-mailings discussed herein; providing a compliance affidavit if requested by the parties;
26 establishing and administering the QSF; calculating and paying, as provided herein, all appropriate taxes
27 and complying with all applicable tax reporting obligations, including preparing and filing all applicable
28 tax forms; and such other tasks as set forth herein, or as the Parties mutually agree.

1 **3.3 Data for Settlement Administrator.** Within ten (10) calendar days of the
2 Effective Date, Defendant shall provide to the Settlement Administrator a confidential list containing the
3 following information: (1) name of each PAGA Settlement Member; (2) last known address of each
4 PAGA Settlement Member; (3) the number of Eligible Pay Periods for each PAGA Settlement Member
5 and any other information required for the Settlement Administrator to independently verify Eligible
6 Pay Periods; and (4) Social Security Numbers for each PAGA Settlement Member (collectively referred
7 to as “PAGA Member Data”). Data provided by Defendant shall be kept confidential by the Settlement
8 Administrator except for purposes of administering the settlement. The Settlement Administrator shall
9 not share any personally-identifying PAGA Member Data with Plaintiffs’ Counsel, including but not
10 limited to their names, addresses, telephone numbers, or email addresses.

11 **4. DISTRIBUTION OF SETTLEMENT PROCEEDS**

12 **4.1 Funding of Gross Settlement Amount.** Defendant shall deposit the Gross
13 Settlement Amount into the Qualified Settlement Fund established by the Settlement Administrator
14 within seven (7) calendar days after the Effective Date.

15 **4.2 Attorneys’ Fees and Costs.** Plaintiffs’ Counsel intends to request—and
16 Defendant agrees not to oppose—that the Court approve an award for (a) attorneys’ fees in the amount
17 up to thirty-three and one-third percent (33 1/3%) of the Gross Settlement Amount (i.e., \$66,666.67);
18 and (b) costs and expenses of suit supported by adequate documentation by Plaintiffs’ Counsel not to
19 exceed \$30,000.00 (collectively referred to as “Attorneys’ Fees and Costs”). Except as provided in this
20 Settlement, Defendant shall have no liability for any other Attorneys’ Fees or Costs.

21 **4.2.1 Approval of Attorneys’ Fees and Costs Not Material.** The Court’s
22 approval of the Attorneys’ Fees and Costs is not a material term of the Settlement. If the Court does not
23 approve or approves only a lesser amount than that requested by Plaintiffs’ Counsel for Attorneys’ Fees
24 or Costs, the other terms of this Settlement shall still apply. The Court’s refusal to approve the
25 Attorneys’ Fees or Costs requested by Plaintiffs’ Counsel does not give Named Plaintiff or Plaintiffs’
26 Counsel any basis to abrogate the Settlement. Any amount of the Attorneys’ Fees and Costs requested
27 by Plaintiffs’ Counsel but unapproved by the Court shall be allocated to the Net Settlement Amount.
28

1 **4.2.2 Timing of Payment of Attorneys' Fees and Costs.** The Settlement
2 Administrator shall pay to Plaintiffs' Counsel any approved Attorneys' Fees and Costs no later than
3 fourteen (14) calendar days after the Effective Date.

4 **4.3 Service Award Payment to Named Plaintiff.** Plaintiffs' Counsel intends to
5 request—and Defendant agrees not to oppose—that the Court award a Service Award to Named Plaintiff
6 Ryland Gimenez in an amount of \$10,000.00 to be drawn from the Gross Settlement Amount. Any
7 Service Award would be in addition to the Named Plaintiff's Individual Settlement Payment. To the
8 extent that the Court approves less than the amount of the Service Award that Plaintiffs' Counsel
9 requests, the difference will be included in the Net Settlement Amount.

10 **4.3.1 Approval of Service Award Not Material.** The Court's approval of the
11 Service Award is not a material term of this Agreement. If the Court does not approve or approves only
12 a lesser amount than that requested for the Service Award, then the other terms of this Agreement shall
13 remain in effect.

14 **4.3.2 Timing and tax reporting of Service Award.** The Settlement
15 Administrator shall pay any Service Award within fourteen (14) calendar days after the Effective Date.
16 The Settlement Administrator shall issue an IRS Form 1099 to Named Plaintiff for the Service Award.

17 **4.4 Administration Costs.** Plaintiffs' Counsel intends to request—and Defendant
18 agrees not to oppose—that the Court approve Administration Costs currently estimated not to exceed
19 \$3,500.00. The Administration Costs approved by the Court will be paid from the Gross Settlement
20 Amount. Any amount of Administration Costs requested by Plaintiffs' Counsel but unapproved by the
21 Court shall be allocated to the Net Settlement Amount. Upon completion of administration of the
22 Settlement set forth in this Agreement, the Settlement Administrator shall provide written certification
23 of such completion to Plaintiffs' Counsel and Defendant's Counsel.

24 **4.4.1 Timing of Payment of Administration Costs.** The Settlement
25 Administrator shall pay itself any approved Administration Costs from the Gross Settlement Amount
26 within thirty-five (35) calendar days after the Effective Date.

27 **4.4.2 Approval of Administration Costs Not Material.** The Court's approval
28 of the Administration Costs is not a material term of this Agreement. If the Court does not approve or

approves only a lesser amount than that requested for Administration Costs, then the other terms of this Agreement shall remain in effect.

4.5 LWDA Payment. The Parties will seek approval from the Court for an LWDA Payment consisting of seventy-five percent (75%) of the Net Settlement Amount as the LWDA's share of the settlement of civil penalties paid under this Settlement pursuant to PAGA.

4.6 Timing of the LWDA Payment. The Settlement Administrator shall pay the LWDA Payment to the LWDA within (14) calendar days after the Effective Date.

4.7 PAGA Distribution Fund. The remaining twenty-five percent (25%) of the Net Settlement Amount will constitute the "PAGA Distribution Fund" for distribution to PAGA Settlement Members. Each PAGA Settlement Member will be eligible to receive a portion of the Net Settlement Amount based on the following formula:

The individual PAGA Settlement Share payment to each PAGA Settlement Member will be calculated by dividing the number of Eligible Pay Periods attributed to him or her by the number of all Eligible Pay Periods attributed to all PAGA Settlement Members multiplied by the PAGA Distribution Fund.

The PAGA Member Data shall be used for purposes of calculating Individual Settlement Payments. Defendant's records shall be determinative for purposes of calculating the number of Eligible Pay Periods and any payments to PAGA Settlement Members.

4.8 Timing and Tax Reporting of the Individual Settlement Payments. The Settlement Administrator shall issue a Settlement Check to each PAGA Settlement Member for their Individual Settlement Payment no later than thirty (30) calendar days after the Effective Date with the PAGA Check Enclosure Letter. Prior to mailing, the Settlement Administrator will update the mailing addresses contained in the PAGA Member Data against the National Change of Address Database. Individual Settlement Payments will be characterized entirely as Form 1099 income.

4.9 Undeliverable or Uncashed Checks. Any Individual Settlement Payment checks returned to the Settlement Administrator as undeliverable shall be sent within five (5) calendar days via First Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall attempt to determine the correct address using a single computer skip-trace search, and it shall then perform a re-mailing within five (5) calendar days. Any

Individual Settlement Payment checks that remain undeliverable or uncashed one hundred eighty (180) calendar days after the postmarked date of the initial mailing of the Individual Settlement Payments will be cancelled and the funds associated with such checks will be sent to the California State Controller's Office Unclaimed Property Fund in the names of such PAGA Settlement Members. The Settlement Administrator shall notify Plaintiffs' Counsel and Defendant's Counsel of any undeliverable checks.

4.10 Reminder Mailing. The Settlement Administrator shall send a reminder mailing to each PAGA Settlement Member who has not cashed his or her Individual Settlement Payment check ninety (90) calendar days after checks are mailed.

4.11 Tax Payment Considerations. Plaintiffs' Counsel and Defendant are not giving any tax advice in connection with the Settlement or any payments to be made pursuant to the Settlement.

5. RELEASES

5.1 Release by PAGA Settlement Members. By operation of the entry of the Approval Order and Judgment, and except as to such rights or claims as may be created by this Settlement, each PAGA Settlement Member will release the Released Parties of the Released PAGA Claims.

5.2 Additional Releases by Named Plaintiff. In addition to the release of Released Claims given by each PAGA Settlement Member, Named Plaintiff also fully releases and discharges the Released Parties from any and all claims, demands, obligations, causes of action, rights, or liabilities of any kind, known or unknown, arising out of any acts or omissions by Defendant or any of the Released Parties through the Effective Date. This general release includes a release of all claims arising from Named Plaintiff's relationship with Defendant. This general release by Named Plaintiff also includes a waiver of rights under California Civil Code Section 1542, which states:

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

This general release from Named Plaintiff is effective only upon the Court granting approval of the Settlement and applies only to claims that may be released as a matter of law.

1 **5.3 No Admission of Liability.** By entering into this Settlement, Defendant in no
2 way admits any violation of law or any liability whatsoever to PAGA Settlement Members, individually
3 or collectively, and expressly denies all such liability. Neither this Agreement, nor any other Settlement
4 documents, shall be offered in any case or proceeding as evidence of any admission by Defendant of any
5 liability on any claim for damages, penalties, restitution, or any other relief. Likewise, by entering into
6 this Settlement, Defendant in no way admits to the suitability of this case to proceed as representative
7 litigation, other than for purposes of Settlement. Rather, Defendant enters into this Settlement to avoid
8 further protracted litigation and to resolve and to settle all disputes with the PAGA Settlement Members.
9 The Parties understand and agree that this Settlement shall be inadmissible for any purpose in any
10 proceeding, except an action or proceeding to approve, interpret, or enforce the terms of this Settlement.
11 The Parties agree that, to the extent permitted by law, this Settlement may be pleaded as a full and
12 complete defense to, and may be used as the basis for an injunction against any action, suit, or other
13 proceeding that may be instituted, prosecuted, or attempted in breach of this Settlement.

14 **6. SETTLEMENT APPROVAL PROCEDURE**

15 **6.1 Settlement Approval.** Named Plaintiff shall submit to the Court an unopposed
16 Motion for Approval of PAGA Settlement within one business day after the date of full execution of this
17 Agreement. This motion shall seek an order to approve the proposed Settlement and include the basis
18 for the Gross Settlement Amount and why the amount is reasonable in light of the facts and controlling
19 authorities pertaining to the claims alleged.

20 **6.2 Class Action Dismissal.** Plaintiff Stephen Gimenez will request that the Court
21 dismiss the class action claims in the Complaint. This request will be submitted to the Court
22 concurrently with Named Plaintiff's unopposed Motion for Approval of PAGA Settlement.

23 **6.3 Effect of Failure to Obtain Class Action Dismissal.** This Settlement is
24 conditioned upon the Court's approval of the PAGA Settlement and the Court's dismissal of the class
25 action.

26 **6.4 Effect of Failure to Obtain Approval.** If this Settlement or a substantially
27 similar settlement mutually agreed to by the Parties is not approved, the Action shall proceed as if no
28

1 settlement had been attempted. Notwithstanding the forgoing, the Parties agree to seek approval of the
2 Settlement and work together to provide any supplemental briefing requested by the Court.

3 **6.5 Entry of Judgment.** Upon issuance of the Approval Order, the Parties shall
4 request that the Court enter Judgment in the case. The Judgment shall not be a judgment in favor of any
5 party but rather shall be a judgment approving the Settlement and dismissing the case with prejudice.

6 **6.5.1 Effect of Failure to Obtain Judgment.** In the event the Court fails to
7 enter Judgment in accordance with this Settlement, or such final judgment is vacated or reversed, the
8 Action shall proceed as if no settlement had been attempted unless the Parties jointly agree to seek
9 reconsideration or appellate review of the ruling or Court approval of a renegotiated settlement.

10 **7. MISCELLANEOUS**

11 **7.1 Interim Stay of Proceedings.** The Parties agree to refrain from further litigation,
12 except such proceedings necessary to implement and to obtain an Approval Order of the terms of the
13 Settlement. If the Settlement is not approved, the Parties agree that they will revert to their positions in
14 the Action prior to the time the Settlement was reached, and no agreements set forth in this Settlement or
15 any documents generated or orders issued related to the Settlement will be admissible in any future
16 proceeding in these or any other action.

17 **7.2 No Publicity.** Plaintiffs (including but not limited to Plaintiffs' Counsel) shall
18 not publicize this Settlement, any terms of this Agreement (including, but not limited to, the PAGA
19 Gross Settlement Amount), or any information about the negotiations leading to the execution of this
20 Agreement on their websites, in advertising/marketing materials or on social media, other than in court
21 filings. The Parties and their counsel agree that they will not issue any press releases or initiate any
22 contact with the media or respond to any inquires from the media about the fact, amount, or terms of the
23 Settlement. Nothing herein limits or purports to limit Plaintiffs' Counsel's ability to submit this
24 Agreement to the LWDA and the Court for purposes of obtaining approval of the Settlement and in
25 compliance with the requirements of PAGA. Nothing in this provision shall prevent either Party from
26 making any legally required disclosures.

1 **7.3 Parties' Authority.** The signatories hereto represent that they are fully
2 authorized to enter into this Settlement and are fully authorized to bind the Parties to all terms stated
3 herein.

4 **7.4 Representation by Counsel.** The Parties acknowledge that they have been
5 represented by counsel throughout all negotiations that preceded the execution of this Agreement, and
6 that this Agreement has been executed with the consent and advice of counsel, and reviewed in full.

7 **7.5 Entire Agreement.** This Settlement constitutes the entire agreement between the
8 Parties with regard to the subject matter contained herein, and all prior and contemporaneous
9 negotiations and understandings between the Parties shall be deemed merged into this Settlement.

10 **7.6 Arms' Length Negotiation; Materiality of Terms.** The Parties have negotiated
11 all the terms and conditions of this Agreement at arms' length. All terms and conditions of this
12 Agreement in the exact form set forth in this Agreement are material to this Agreement and have been
13 relied upon by the Parties in entering into this Agreement, unless otherwise expressly stated.

14 **7.7 Counterparts.** This Settlement may be executed in counterparts, and when each
15 party has signed and delivered at least one such counterpart, each counterpart shall be deemed an
16 original, and when taken together with other signed counterparts, shall constitute one signed Settlement,
17 which shall be binding upon and effective as to all Parties.

18 **7.8 Facsimile or Scanned Signatures.** Any party may sign and deliver this
19 Settlement by signing on the designated signature block and transmitting that signature page via
20 facsimile, DocuSign, or as an attachment to an e-mail to counsel for the other party. Any signature
21 made and transmitted by facsimile or as an attachment to an e-mail for the purpose of executing this
22 Settlement shall be deemed an original signature for purposes of this Settlement and shall be binding
23 upon the party who transmits the signature page.

24 **7.9 Waivers, etc. to Be in Writing.** No waiver, modification or amendment of the
25 terms of this Agreement, whether purportedly made before or after the Court's approval of this
26 Agreement, shall be valid or binding unless in writing, signed by or on behalf of all Parties and then
27 only to the extent set forth in such written waiver, modification or amendment, subject to any required
28 Court approval. Any failure by any Party to insist upon the strict performance by the other Party of any

1 of the provisions of this Agreement shall not be deemed a waiver of future performance of the same
2 provisions or of any of the other provisions of this Agreement, and such party, notwithstanding such
3 failure, shall have the right thereafter to insist upon the specific performance of any and all of the
4 provisions of this Agreement.

5 **7.10 Construction.** The determination of the terms and conditions of this Settlement
6 has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this
7 Settlement, and the terms and conditions of this Settlement are not intended to be, and shall not be,
8 construed against any party by virtue of draftsmanship.

9 **7.10.1 Captions.** The captions or headings of the sections and paragraphs of this
10 Settlement have been inserted for convenience of reference only and shall have no effect upon the
11 construction or interpretation of any part of this Settlement.

12 **7.10.2 Invalidity of Any Provision.** Before declaring any provision of this
13 Settlement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent
14 possible consistent with applicable precedents so as to render all provisions of this Settlement valid and
15 enforceable.

16 **7.11 Further Acts and Cooperation Between the Parties.** The Parties shall
17 cooperate fully with each other and shall use their best efforts to obtain the Court's approval of this
18 Settlement and all of its terms. Plaintiffs' Counsel will be responsible for drafting and filing all
19 documents necessary to obtain the Approval Order and Judgment. Each of the Parties, upon the request
20 of another, agrees to perform such further acts and to execute and to deliver such other documents as are
21 reasonably necessary to carry out the provisions of this Settlement.

22 **7.12 Binding on Successors and Assigns.** This Agreement will be binding upon, and
23 inure to the benefit of, the successors or assigns of the Parties hereto.

24 **7.13 No Assignment.** Plaintiffs represent and warrant that they have not assigned or
25 transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or
26 interest therein, including, but not limited to, any interest in the Action, or any related action.

27 **7.14 Continuing Jurisdiction.** The Court shall retain jurisdiction over the
28 implementation of this Settlement as well as any and all matters arising out of, or related to, the

1 implementation of this Settlement. The Court shall not have jurisdiction to modify the terms of the
2 Settlement without the consent of all of the Parties. Should either party be required to enforce the terms
3 of this Settlement, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

4 **7.15 Governing Law.** This Settlement was made and entered into in the State of
5 California. All terms of this Settlement shall be governed by and interpreted according to the laws of
6 the State of California.

SO AGREED AND STIPULATED:

DATED: 03/28/2022, 2022

By: 
Ryland Gimenez

DATED: _____, 2022

By: _____
Stephen Gimenez

DATED: _____, 2022

Alacrity Solutions Group, LLC f/k/a Worley Claims
Services, LLC

By: _____
Annie Hunt, General Counsel

SO AGREED AND STIPULATED:

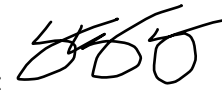
DATED: _____, 2022

By: _____

Ryland Gimenez

DATED: 03/28/2022, 2022

By: _____



Stephen Gimenez

DATED: _____, 2022

Alacrity Solutions Group, LLC f/k/a Worley Claims
Services, LLC

By: _____

Annie Hunt, General Counsel

SO AGREED AND STIPULATED:

DATED: _____, 2022

By: _____
Ryland Gimenez

DATED: _____, 2022

By: _____
Stephen Gimenez

DATED: March 29, 2022

Alacrity Solutions Group, LLC f/k/a Worley Claims
Services, LLC

By: Annie Hunt
Annie Hunt, General Counsel

Exhibit A

Notice of Settlement of Representative Action
Gimenez v. Alacrity Solutions Group, LLC, Orange County Superior Court, Case No: 30-2020-01175645-CU-OE-CXC

You are receiving this notice because the Orange County Superior Court approved a settlement in the above case and you are a member of the group that is entitled to receive payment. Enclosed please find a check with your portion of the settlement proceeds.

A settlement (the “Settlement”) has been reached between Plaintiff Ryland Gimenez on behalf of the State of California and Defendant Alacrity Solutions Group, LLC f/k/a Worley Claims Services, LLC (“Defendant”) in a representative action pending in the Orange County Superior Court, Case No. 30-2020-01175645-CU-OE-CXC (the “Lawsuit”).

In the Lawsuit, Plaintiff alleged that Defendant misclassified Independent Adjusters as independent contractors and thereby violated certain California Labor Code provisions, including by failing to provide minimum wage and overtime compensation, proper breaks, timely wages during employment and upon separation, legally sufficient wage statements and payroll records, and reimbursement for business expenses, and willfully misclassifying workers. Plaintiff pursued claims for penalties against Defendant on behalf of the State of California under the California Private Attorneys General Act (“PAGA”), which provides that 75% of any recovery be paid to the State of California and 25% of any recovery be paid to the Representative Group. The Settlement releases claims for penalties under PAGA based on the foregoing alleged violations for the time period from July 2, 2019 through [date Court enters approval order]. Defendant denies Plaintiff’s claims in their entirety and asserts that it complied with the applicable law. However, the parties entered the Settlement to avoid the risks, uncertainties and expense of further litigation. While you were not a party to the Lawsuit, you and the State of California have been bound by the Settlement and resulting judgment entered in this matter by the Court as to civil penalties under PAGA.

The Orange County Superior Court approved the parties’ settlement of \$200,000 on [DATE]. By approving the settlement, the Court did not decide in Plaintiff’s or Defendant’s favor or otherwise rule on the merits of the lawsuit. The Net Settlement Amount after the Court-approved attorney’s fees, costs, administration costs, and service award is \$108,198.08. Seventy-five percent (\$81,148.56) will be paid to the State of California, and twenty-five percent (\$27,049.52) will be divided among the PAGA Settlement Members.

According to Defendant’s records, you performed adjusting services under contract with Defendant as an Independent Adjuster in California between July 2, 2019 and September 30, 2021 and are therefore entitled to a share of the settlement. Your Settlement payment is enclosed herein. Your payment is based on the number of weeks you performed adjusting services as an Independent Adjuster between July 2, 2019 and [date Court enters approval order]. The payment is characterized as Form 1099 income. You are responsible for any taxes payable on the amount you have received. As indicated on the check, you have One-Hundred and Eighty (180) days from the date of mailing to cash the check. If you do not cash your check within 180 days, the check will be voided, and the money will be submitted in your name to the State of California’s unclaimed property fund.

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

You may direct any questions to the settlement administrator using the contact information below:

[Insert Settlement Administrator Information]

**ADDENDUM TO PAGA REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT AND RELEASE**

1.8 "Effective Date" refers to the date upon which both of the following have occurred: (i) the Approval Order is entered by the California Superior Court, County of Orange, or other court assuming jurisdiction of this matter, and (ii) the Approval Order becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Approval Order, the date the Approval Order is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the United States Supreme Court or California Supreme Court; (ii) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the Approval Order is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Approval Order; *i.e.*, sixty-one (61) days from entry of the Approval Order. No money will be distributed unless and until the Effective Date occurs.

SO AGREED AND STIPULATED:

DATED: 05/23/2022, 2022

By: *Ryland Gimenez*
Ryland Gimenez

DATED: _____, 2022

Alacrity Solutions Group, LLC f/k/a Worley Claims
Services, LLC

By: _____
Annie Hunt, General Counsel

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2 **SETTLEMENT AGREEMENT AND RELEASE**

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10 Order is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time
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12 Approval Order. No money will be distributed unless and until the Effective Date occurs.

13
14 **SO AGREED AND STIPULATED:**

15
16 DATED: _____, 2022

17 By: _____
18 Ryland Gimenez

19
20 DATED: May 24, 2022

21 Alacrity Solutions Group, LLC f/k/a Worley Claims
22 Services, LLC

23 By: Annie Hunt

24 Annie Hunt, General Counsel
25
26
27
28

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Gimenez v. Alacrity Solutions Group, LLC, Orange County Superior Court, Case No: 30-2020-01175645-CU-OE-CXC

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[Insert Settlement Administrator Information]