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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF CONTRA COSTA

ANGELO KALAVERAS and EMAD
MISSREEZADAH,

Plaintiff,

vs.

NCR CORPORATION; and DOES
1-100, inclusive,

Defendants.

Case No.: **MSC20-01186**

**DECLARATION OF KYLE
NORDREHAUG IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL OF CLASS SETTLEMENT**

Hearing Date:

Hearing Time:

Dept: 12

Judge: Hon. Charles Treat

Action Filed: June 25, 2020

Trial Date: None set

1 I, Kyle Nordrehaug, declare as follows:

2 1. I am a partner of the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP,
3 counsel of record for Plaintiff Emad Missreezadah in this matter. As such, I am fully familiar with
4 the facts, pleadings and history of this matter. The following facts are within my own personal
5 knowledge, and if called as a witness, I could testify competently to the matters stated herein.

6 2. This declaration is being submitted in support of the motion by Plaintiffs Angelo
7 Kalaveras and Emad Missreezadah ("Plaintiffs") for preliminary approval of the proposed class
8 action settlement with Defendant NCR Corporation ("Defendant"), and seeks entry of an order:
9 (1) preliminarily approving the proposed settlement of this class action with Defendant; (2) for
10 settlement purposes only, conditionally certifying the Class, which is comprised of "all individuals
11 who were employed by Defendant in California as hourly, non-exempt employees during the Class
12 Period" of June 25, 2019 through July 19, 2022; (3) provisionally appointing Plaintiffs as the
13 representatives of the Class; (4) provisionally appointing Norman B. Blumenthal, Kyle R.
14 Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP and
15 Robert J. Wasserman and Jenny D. Baysinger of Mayall Hurley P.C. as Class Counsel for the Class;
16 (5) approving the form and method for providing class-wide notice; (6) directing that notice of the
17 proposed settlement be given to the class; (7) appointing Simpluris, Inc. as Settlement
18 Administrator, and (8) scheduling a final approval hearing date to consider Plaintiffs' motion for
19 final approval of the settlement and entry of the Judgment, and Plaintiffs' motion for approval of
20 attorneys' fees and expenses. Plaintiffs and Defendant (collectively the "Parties") have reached a
21 full and final settlement of the above-captioned action. Attached hereto as Exhibit #1 is a copy of
22 the fully executed Class and Representative Action Settlement Agreement ("Agreement") along
23 with exhibits thereto. This Declaration incorporates by reference the definitions in the Agreement,
24 and all capitalized terms defined therein shall have the same meaning as set forth in the Agreement.

25
26 Fairness of Settlement

27 3. As consideration for this Settlement, the Gross Settlement Amount is One Million
28 Dollars (\$1,000,000) to be paid by Defendant, as set forth in the Agreement. The Gross Settlement

1 Amount will settle all issues pending in the Action between the Parties and will be made in full and
2 final settlement of the Released Class Claims and Released PAGA Claims. The Gross Settlement
3 Amount includes all payments of Settlement Shares to the Participating Class Members, Settlement
4 Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses
5 Payment, Class Representative Service Payments to Plaintiffs, and the PAGA Payment. The Gross
6 Settlement Amount does not include the employer's share of payroll taxes which will be separately
7 paid by Defendant. The Settlement is all-in with no reversion to Defendant and no need to submit a
8 claim form.

9 4. The relief provided in the Settlement will benefit all members of the Class. The
10 Settlement does not grant preferential treatment to Plaintiffs or segments of the Class in any way.
11 Payments to the Class Members are all determined under a neutral methodology. Each
12 Participating Class Member will receive the same opportunity to participate in and receive payment
13 through a neutral formula that is based upon the weeks that individual was employed by Defendant
14 during the Class Period.

15 5. On April 19, 2022, the Parties participated in an all-day mediation presided over by
16 Mark Rudy, a respected mediator of wage and hour representative and class actions. Prior to the
17 mediation, sufficient discovery was conducted to investigate the claims, Defendant's liability, and
18 class-wide damages, including, but not limited to the following: Plaintiffs requested and Defendant
19 produced extensive documentation including time and pay data, policy documents, information
20 concerning the total number of alleged Class Members and Aggrieved Employees employed during
21 the Class Period and PAGA Period, and information on the number of weeks Class Members were
22 employed during the Class Period and the number of pay periods Aggrieved Employees were
23 employed during the PAGA Period. In preparation for the mediation, Defendant provided Class
24 Counsel with necessary information for the members of the Class, including time data, payroll data
25 and data concerning the composition of the Class. Plaintiffs analyzed the data, and prepared and
26 submitted a mediation brief and damage valuation to the Mediator. At the conclusion of the all-day
27 mediation, the Parties agreed to this Settlement. The final settlement terms were negotiated and set
28 forth in the Agreement now presented for this Court's approval. Importantly, Plaintiffs and Class

1 Counsel believe that this Settlement is fair, reasonable and adequate.

2 6. For the estimated 781 individuals in the Class who collectively were employed by
3 Defendant for 72,937 weeks, the Gross Settlement Amount provides an average value of \$1,280 per
4 Class Member and \$13.71 per week employed, and after deductions, the Net Settlement Amount
5 provides an average recovery of \$717 per Class Member and \$7.68 per week employed. The
6 calculations to compensate for the amount due to the Class Members at the time this Settlement was
7 negotiated were calculated in advance of mediation. For the individuals whose claims are at issue in
8 this Action, Plaintiffs analyzed the data for putative class members and determined the potential
9 maximum damages for the class claims. For the Class, Plaintiffs determined that the maximum
10 potential unpaid overtime due to the alleged miscalculation of the regular rate was \$96,910, the
11 claim for underpayment of sick pay was \$82,532, the maximum potential meal period damages
12 were estimated to be \$1,977,740 based upon an alleged 20% violation rate evidenced in the time
13 punch records plus the *Ferra* underpayment and then deducting the meal premiums paid by
14 Defendants, the maximum rest period damages were estimated to be \$1,634,959 based upon the
15 same 20% violation rate, and the maximum damages for unreimbursed expenses were estimated to
16 be \$157,550 based upon cell phone usage of \$10 per month. In total, the damages for the Class
17 were calculated to have a maximum total value of \$3,949,691. In addition, Plaintiffs calculated that
18 the maximum value of the waiting time penalties was \$1,161,828 between, and the maximum value
19 of the wage statement penalties was \$2,079,600, however, these wage statement and waiting time
20 penalties claims potentially had a much smaller value, even if damages were awarded, to the extent
21 that they are only derivative of the meal and rest break claims.¹ Defendants dispute Plaintiffs'

22
23 ¹ While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
24 226, at mediation Plaintiffs recognized that these claims were subject to various defenses asserted by
25 Defendant, including, but not limited to, a good faith dispute defense as to whether any premium wages
26 for meal or rest periods or other wages were owed given Defendant's position that Plaintiffs were
27 properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576, 584 (2010) ("There
28 is no willful failure to pay wages if the employer and employee have a good faith dispute as to whether
and when the wages were due."). Additionally, Courts have held that violations of the meal and rest
period regulations, which require payment of a "premium wage" for each improper meal period, do **not**
give rise to claims under sections 203 and 226. *See Ling v. P.F. Chang's China Bistro, Inc.*, 245 Cal.
App. 4th 1242, 1261 (2016) and *Maldonado v. Epsilon Plastics, Inc.*, 22 Cal. App. 5th 1308, 1336

1 estimates and believes the amount they can recover for themselves and the Class, if anything at all,
2 is actually much lower. Consequently, the Gross Settlement Amount represents 25% of the value
3 of the potential maximum damages at issue for the Class in this case, assuming these amounts could
4 all be proven in full at trial.² The above maximum calculations should then be adjusted in
5 consideration for both the risk of certification and the risk of establishing class-wide liability on all
6 claims. Given the amount of the Settlement as compared to the potential value of the claims, the
7 Settlement is most certainly fair and reasonable.

8
9 Procedural History of the Litigation

10 7. On June 25, 2020, Plaintiff Angelo Kalaveras sent a letter to the LWDA notifying it
11 that Plaintiff Kalaveras intended to pursue claims against Defendant under PAGA for violation of
12 California Labor Code sections 201-204, 226, 226.7, 233, 246, 510, 512, and 1198. On June 25,
13 2020, Plaintiff Kalaveras filed a Complaint against Defendant in the Superior Court of the State of
14 California, County of Contra Costa, Case No. C20-01186 ("Kalaveras Action") which asserted class
15 and collective action claims that Defendant: (a) failed to properly calculate and pay overtime (Fair
16 Labor Standards Act and California Labor Code §§ 510 and 1198); (b) failed to provide meal breaks
17 (California Labor Code §§ 226.7 and 512); (c) failed to provide rest breaks (California Labor Code
18 § 226.7); (d) failed to furnish accurate itemized wage statements (California Labor Code § 226); (e)
19 failed to pay all wages at cessation of employment (California Labor Code §§ 201, et seq.); and (f)
20 committed unlawful business practices (California Business and Professions Code § 17200 et seq.).
21 On August 31, 2020, Plaintiff Kalaveras filed a First Amended Complaint in the Kalaveras Action,
22 adding a cause of action alleging Defendant's violation of the Private Attorneys General Act
23 ("PAGA").

24 8. On January 7, 2021, Plaintiff Emad Missreездah sent a letter to the LWDA

25 _____
26 (2018). As a result, at the time of mediation the viability of Plaintiff's claims on these theories was
27 uncertain.

28 ² Because the PAGA claim does not provide a recovery to the Class, Plaintiffs have not included
the PAGA claim in this discussion. The PAGA claim is addressed in the Decl. Nordrehaug at ¶ 33.

1 notifying it that Plaintiff Missreezadah intended to pursue claims against Defendant under PAGA
2 for violations of California Labor Code sections 201-204, 210, 226, 226.7, 351, 510, 512, 558,
3 1194, 1197, 1197.1, 1198, and 2802. On May 11, 2021, Plaintiff Emad Missreezadah filed a
4 Complaint against Defendant in the Superior Court of the State of California, County of Los
5 Angeles ("Missreezadah PAGA Action") which asserted a single claim that Defendant violated the
6 Private Attorney General Act, Cal. Labor Code §§ 2698, et seq. ("PAGA"). On November 17,
7 2021, the Los Angeles Superior Court granted Plaintiff Missreezadah's request for dismissal without
8 prejudice of the Missreezadah PAGA Action.

9 9. On October 25, 2021, Plaintiffs filed a Third Amended Complaint in the Kalaveras
10 Action, adding Plaintiff Missreezadah as a named plaintiff, and pursuing a single cause of action
11 brought pursuant to PAGA. As part of this Settlement, on August 18, 2022, Plaintiffs filed a Fourth
12 Amended Complaint in this Action in which Plaintiffs alleged both the above Class and PAGA
13 claims against Defendant, and this Fourth Amended Complaint is the operative complaint.

14 10. Over the course of litigation, the Parties engaged in the investigation of the claims,
15 including production of documents, class data, and other information, allowing for the full and
16 complete analysis of liabilities and defenses to the claims in the Action. The information for
17 mediation obtained by Plaintiffs included: (1) information concerning the total number of alleged
18 Class Members and Aggrieved Employees employed during the Class Period and PAGA Period; (2)
19 time data and payroll data for employees in the Class; (3) Defendants' employee wage and hour
20 policies; (5) the employment files for the Plaintiffs; and, (7) samples of wage statements provided
21 by Defendants. Plaintiffs and Defendant agreed to discuss resolution of the Action through a
22 mediation.

23 11. Prior to mediation, the Parties engaged in the above investigation and the exchange
24 of documents and information in connection with the Action. On April 19, 2022, the Plaintiffs and
25 Defendants participated in an all-day mediation presided over by Mark Rudy, a respected and
26 experienced mediator of wage and hour representative and class actions. At the end of the
27 mediation, each side, represented by its respective counsel, were able to agree to settle the Action
28 based on a mediator's proposal which was memorialized in the form of a Memorandum of

1 Understanding. At all times, the negotiations were arm's length and contentious.

2 12. The Parties continued to negotiate the terms of the settlement and prepared the final
3 Agreement which was signed by the Parties and is now presented to this Court for preliminary
4 approval. Accordingly, for purposes of this Settlement, the "Class" is defined as "all individuals
5 who were employed by Defendant in California as hourly, non-exempt employees during the Class
6 Period." (Agreement at ¶ I(3).) The Class Period is from June 25, 2019 through July 19, 2022.
7 (Agreement at ¶I(10).) The Class consists of an estimated 781 Class Members who worked a total
8 of approximately 72,937 work weeks from June 25, 2019 through July 19, 2022. Defendant has
9 provided the required declaration verifying these figures. The Agreement has an escalator clause to
10 increase the Gross Settlement Amount should actual number of workweeks for all Class Members
11 during the Class Period should exceed 65,747 by more than ten percent (10%). (Agreement at ¶
12 III(50)(e).)

13 13. Although a settlement has been reached, Defendant denies any liability or
14 wrongdoing of any kind associated with the claims alleged in the Action and further denies that, for
15 any purpose other than settlement, the Action is appropriate for class treatment. Defendant
16 contends, among other things, that it has correctly compensated the Class Members and complied at
17 all times with the California Labor Code, applicable Wage Order, and all other laws and
18 regulations. Further, Defendant contends that class certification would be inappropriate for any
19 reason other than for settlement. Plaintiffs contend that Defendant violated California wage and
20 hour laws as alleged in the Action. Plaintiffs further contend that the Action is appropriate for class
21 certification on the basis that the claims meet the requisites for class certification. Without
22 admitting that class certification is proper, Defendant has stipulated that the above Class may be
23 certified for settlement purposes only. (Agreement at ¶ II(46).) The Parties agree that certification
24 for settlement purposes is not an admission that class certification would be proper if the class
25 certification issue were litigated. Further, the Agreement is not admissible in this or any other
26 proceeding as evidence that the Class could be certified absent a settlement. Solely for purposes of
27 settling the Action, the Parties stipulate and agree that the requisites for establishing class
28 certification with respect to the Class are satisfied.

1 14. Class Counsel has conducted a thorough investigation into the facts of the class
2 action. Over the course of the litigation, Class Counsel has diligently evaluated the Class Members'
3 claims against Defendant. Prior to the settlement negotiations, counsel for Defendant provided
4 Class Counsel with access to necessary information for the Class. In addition, Class Counsel
5 previously negotiated settlements with other employers in actions involving nearly identical issues
6 and analogous defenses. Based on the foregoing data and their own independent investigation,
7 evaluation and experience, Class Counsel believes that the settlement with Defendant on the terms
8 set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the Class in
9 light of all known facts and circumstances, including the risk of significant delay, defenses asserted
10 by Defendant, and potential appellate issues.

11
12 Settlement Terms and Plan of Allocation

13 15. The Gross Settlement Amount that Defendant will pay under this Settlement is One
14 Million Dollars (\$1,000,000). (Agreement at ¶ I(19).) Under the Settlement, the Gross Settlement
15 Amount consists of the following elements: (1) payment of the Settlement Shares to Participating
16 Class Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment;
17 (3) Settlement Administration Expenses; (4) Class Representative Service Payments to the
18 Plaintiffs; and (5) the PAGA Payment. (Agreement at ¶ I(19).) The Gross Settlement Amount does
19 not include the employer's share of payroll taxes. (Agreement at ¶ III(48).) The Gross Settlement
20 Amount shall be all-in with no reversion to Defendant. (Agreement at ¶ III(48).)

21 16. Defendant shall fund the Gross Settlement Amount and the amount necessary to pay
22 Defendant's share of payroll taxes within fifteen (15) calendar days of the Effective Date.
23 (Agreement at ¶ III(55).) The Settlement Shares to Participating Class Members will be mailed by
24 the Settlement Administrator within fifteen (15) calendar days after the funding of the Gross
25 Settlement Amount. (Agreement at ¶ III(55).)

26 17. The Net Settlement Amount shall equal the net amount available for payment to the
27 Class after deducting the Court-approved amounts for the Class Representative Service Payments,
28 the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the PAGA Payment,

1 and the Settlement Administration Expenses. (Agreement at ¶ I(22).) The Net Settlement Amount
2 will be distributed as the Settlement Shares to the Class Members who do not timely request
3 exclusion ("Participating Class Members"). (Agreement at ¶¶ I(27) and III(50).) The Settlement
4 Share for each Participating Class Member will be calculated as follows: (a) the Settlement
5 Administrator shall divide the Net Settlement Amount by the total number of weeks employed
6 during the Class Period by Participating Class Members to determine a dollar amount per week
7 ("Weekly Rate"); and (b) the Settlement Administrator shall then take the number of weeks
8 employed by each Participating Class Member during the Class Period and multiply it by the
9 Weekly Rate to calculate their Settlement Share. (Agreement at ¶ III(50)(b).) Workweeks will be
10 based on Defendant's records, however, Class Members will have the right to challenge the number
11 of weeks they were employed during the Class Period.

12 18. Class Members may choose to opt-out of the Settlement by following the directions
13 in the Class Notice. (Agreement at ¶ III(52)(c)(iii) and Ex. A.) All Class Members who do not
14 "opt out" will be deemed Participating Class Members who will be bound by the Settlement and
15 will be entitled to receive a Settlement Share. Aggrieved Employees who opt out the Settlement
16 will still be paid their allocation of the PAGA Payment and will remain bound by the release of the
17 Released PAGA Claims, regardless of their request for exclusion. (Agreement at ¶ III(52)(c)(iii).)
18 Finally, the Class Notice will also advise the Class Members of their right to object to the
19 Settlement and/or dispute the workweeks they were employed by Defendant during the Class
20 Period. (Agreement at ¶ III(52)(c)(i)-(ii), Ex. A.)

21 19. A Participating Class Member must cash a Settlement Share check within 180
22 calendar days after it is mailed. (Agreement at ¶ III(56).) The Settlement Administrator will send a
23 reminder to Participating Class Members who have not cashed their checks within 120 calendar
24 days after its last mailing to the affected individual. (Agreement at ¶ III(56).) Any settlement
25 checks not cashed within 180 calendar days of the date the settlement check was mailed will be
26 voided and any funds from such uncashed checks will be paid to the California State Controller's
27 Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their
28 check. (Agreement at ¶ III(56).)

1 20. After receiving estimates from three different vendors, the Parties agreed to
2 Simpluris as the Settlement Administrator as their bid was the lowest. (Agreement at ¶ III(51).)
3 From the Gross Settlement Amount, the Settlement Administrator shall be paid for the expenses of
4 administering the Settlement in an amount not to exceed \$15,000. (Agreement at ¶ III(49)(d).) The
5 bid from Simpluris provided for a capped expense of \$12,000.

6 21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded
7 a sum not to exceed one-third (1/3) of the Gross Settlement Amount as the Class Counsel Fees
8 Payment. (Agreement at ¶ III(49)(b).) Class Counsel will also be allowed to apply separately for
9 an award of Class Counsel Litigation Expenses Payment in an amount not to exceed \$21,000.
10 (Agreement at ¶ III(49)(b).) Subject to Court approval, the Agreement provides for a payment of no
11 more than \$10,000 to each of the Plaintiffs as the Class Representative Service Payments.
12 (Agreement at ¶ III(49)(a).) The Class Counsel Fee Payment, Class Counsel Litigation Expenses
13 Payment, and Class Representative Service Payments shall all be paid from the Gross Settlement
14 Amount.

15 22. The Parties will seek approval from the Court for the PAGA Payment of \$50,000 out
16 of the Gross Settlement Amount, which shall be allocated 75% (\$37,500) to the LWDA as the
17 LWDA's share of the PAGA Payment pursuant to PAGA and 25% (\$12,500) will be distributed to
18 the Aggrieved Employees based on their respective pay periods employed during the PAGA Period.
19 (Agreement at ¶ III(49)(c).) All Aggrieved Employees will be sent their share of the PAGA
20 Payment and will be subject to the release of the Released PAGA Claims, whether or not they opt
21 out of the Class. (Agreement at ¶ III(49)(c).) As set forth in the accompany proof of service, the
22 LWDA has been served with this motion and the Agreement.

23
24 Risks of Continued Litigation and Standards for Approval

25 23. Plaintiffs and Class Counsel recognize the expense and length of continuing to
26 litigate and trying this Action against Defendant through possible appeals which could take several
27 years. Class Counsel has also taken into account the uncertain outcome and risk of litigation,
28 especially in complex class actions such as this Action. Class Counsel is also mindful of and

1 recognize the inherent problems of proof under, and alleged defenses to, the claims asserted in the
2 Action. Based upon their evaluation, Plaintiffs and Class Counsel have determined that the
3 Settlement set forth in the Agreement is in the best interest of the Class Members.

4 24. Here, a number of defenses asserted by Defendant presented serious threats to the
5 claims of the Plaintiffs and the other Class Members. Defendant asserted that Defendant's practices
6 complied with all applicable Labor laws. Defendant argued that all work time was recorded and
7 paid, and that its policies expressly prohibit off-the-clock work, and that the vast majority of the
8 Class Members are afforded considerable discretion about how to organize their work schedule
9 such that there are virtually no barriers to taking breaks or to accurately recording all time they
10 work. Defendant contends that their meal and rest period policies fully complied with California
11 law, that Defendant's timekeeping system recorded meal periods, and that meal periods were
12 provided. Defendant also argued that meal period premiums were paid when a meal period was not
13 provided, which negated the meal period claim. Further, Defendant argued that Defendant was not
14 required to record rest periods and that there was no evidence that rest periods were not provided
15 given the facially lawful policies. Defendant also argues that Plaintiffs' regular rate claim has
16 minimal value because bonus or incentive compensation was not frequently paid to Class Members.
17 Finally, Defendant could argue that the Supreme Court decision in *Brinker v. Superior Court*, 53
18 Cal. 4th 1004 (2012), weakens Plaintiffs' claims, on liability, value, and class certifiability as to the
19 meal and rest period claims. Defendant also argued that based on its facially lawful practices, it
20 acted in good faith and without willfulness, which if accepted would negate the claims for waiting
21 time penalties and/or inaccurate wage statements. If successful, Defendant's defenses could
22 eliminate or substantially reduce any recovery to the Class. While Plaintiffs believe that these
23 defenses could be overcome, Defendant maintains these defenses have merit and therefore present a
24 serious risk to recovery by the Class.

25 25. There was also a significant risk that, if the Action was not settled, Plaintiffs would
26 be unable to obtain class certification and thereby not recover on behalf of any employees other
27 than themselves. Defendant argued that the individual experience of each putative class member
28 varied with respect to the claims. Defendant argued that because the vast majority of the Class

1 Members set their working schedule, mini-trials would have been needed to determine whether each
2 Class Member worked off the clock, whether Defendant knew that they worked off the clock,
3 whether each Class Member took meal and/or rest breaks, and whether Class Members were ever
4 prevented from taking their breaks as opposed to choosing not to take their breaks. Defendant
5 could also contest class certification by arguing injury and good faith were case by case
6 determinations that precluded class certification. Plaintiffs are aware of cases where class
7 certification of similar claims was denied. *See e.g. Cacho v. Eurostar, Inc.*, 43 Cal. App. 5th 885,
8 256 Cal. Rptr. 3d 547 (2019) (denying certification of meal and rest break claims). Defendant also
9 contended that individual differences in work experiences not only impacted damages but would
10 also impact certification. Finally, even if class certification was successful, as demonstrated by the
11 California Supreme Court decision in *Duran v. U.S. Bank National Assn.*, 59 Cal. 4th 1 (2014),
12 there are significant hurdles to overcome for a class wide recovery even where the class has been
13 certified. While other cases have approved class certification in wage and hour claims, class
14 certification in this action would have been hotly disputed and was by no means a foregone
15 conclusion.

16 26. This settlement is therefore certainly entitled to preliminary approval. Were this
17 case to go to trial, the Plaintiffs and the other class members would need to prove, among other
18 things, that wages were owed on a class-wide basis. This was and is a substantial risk.

19 27. Plaintiffs will apply to the Court for Class Representative Service Payments in
20 consideration for their service and for the risks undertaken on behalf of the class. (Agreement at ¶
21 III(49)(a).) Plaintiffs performed their duty admirably by working with Class Counsel. At this
22 stage, the requested service award amount of \$10,000 each is well within the accepted range of
23 awards for purposes of preliminary approval. *See e.g. Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018
24 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500 where average class member payment
25 was \$351); *Holman v. Experian Info. Solutions, Inc.*, 2014 U.S. Dist. LEXIS 173698 (N.D. Cal.
26 2014) (approving \$10,000 service award where class member recovery was \$375); *Rausch v.*
27 *Hartford Fin. Servs. Grp.*, 2007 U.S. Dist. LEXIS 14740, 2007 WL 671334 (D. Or. 2007)
28 (approving award of \$10,000 where class member recoveries were as little as \$150); *Louie v.*

1 *Kaiser Foundation Health Plan, Inc.*, 2008 WL 4473183, *7 (S.D.Cal. Oct. 06, 2008) (awarding
2 \$25,000 service award to each of six plaintiffs in overtime class action); *Glass v. UBS Fin. Servs.*,
3 2007 WL 221862, *16-17 (N.D.Cal. Jan. 27 2007) (awarding \$25,000 service award in overtime
4 class action and a pool of \$100,000.00 in enhancements). As explained in *Glass*, service awards
5 are routinely awarded to class representatives to compensate the employees for the time and effort
6 expended on the case, for the risk of litigation, for the fear of suing an employer and retaliation
7 there from, and to serve as an incentive to vindicate the statutory rights of all employees. 2007 WL
8 221862 at *16-17.

9 28. The stage of the proceedings at which this Settlement was reached also militates in
10 favor of preliminary approval and ultimately, final approval of the Settlement. Class Counsel has
11 conducted a thorough investigation into the facts of the class action. Class Counsel began
12 investigating the Class Members' claims before the Action was filed. Class Counsel conducted a
13 review and analysis of the relevant documents and data. Class Counsel was also experienced with
14 the claims at issue here, as Class Counsel previously litigated and settled similar claims in other
15 actions. Accordingly, the agreement to settle did not occur until Class Counsel possessed sufficient
16 information to make an informed judgment regarding the likelihood of success on the merits and the
17 results that could be obtained through further litigation.

18 29. Based on the foregoing data and their own independent investigation and evaluation,
19 Class Counsel is of the opinion that the Settlement with Defendant for the consideration and on the
20 terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the
21 Class in light of all known facts and circumstances, including the risk of significant delay, defenses
22 asserted by Defendant, and numerous potential appellate issues. There can be no doubt that
23 Counsel for both parties possessed sufficient information to make an informed judgment regarding
24 the likelihood of success on the merits and the results that could be obtained through further
25 litigation.

26
27 Class Certification Issues

28 30. Plaintiffs contend that the proposed settlement meets all of the requirements for class

1 certification under California Code of Civil Procedure § 382 as demonstrated below, and therefore,
2 the Court may appropriately approve the Class as defined in the Agreement. This Court should
3 conditionally certify the Class for settlement purposes only, defined as follows:

4 All individuals who were employed by Defendant in California as hourly,
5 non-exempt employees during the Class Period.

6 (Agreement at ¶ I(3).)

7 The “Class Period” is June 25, 2019 through July 19, 2022. (Agreement at ¶ I(10).)

8 a. **Numerosity** - Here, Plaintiffs assert that the 781 current and former
9 employees that comprise the Class can be identified based on Defendant’s records and are
10 sufficiently numerous for class certification.

11 b. **Common Issues Predominate** - Here, Plaintiffs contend that common
12 questions of law and fact are present, and specifically the common questions of whether Defendant
13 properly compensated for alleged overtime and sick pay, whether the Defendant failed to provide
14 meal and rest periods, whether Defendant failed to provide required expense reimbursement, and
15 whether Class Members are entitled to damages and penalties as a result of these practices.

16 c. **Typicality** - In the Action, Plaintiffs contend that there can be little doubt
17 that the typicality requirement is satisfied. The Plaintiffs, like every other member of the Class,
18 worked for Defendant as non-exempt employees during the Class Period. Plaintiffs contend that,
19 like every other member of the Class, they were subject to the same practices and policies of the
20 Defendant and are subject to the same defenses. Thus, Plaintiffs assert that the claims of the
21 Plaintiffs and the Class Members arise from the same course of conduct by the Defendant, involve
22 the same employment policies and practices of Defendant, and are based on the same legal theories.

23 d. **Adequacy** - Plaintiffs contend that the Class Members are adequately
24 represented here because Plaintiffs and representing counsel (a) do not have any conflicts of interest
25 with other class members, and (b) will prosecute the case vigorously on behalf of the class. This
26 requirement is met here. First, Plaintiffs are well aware of their duties as the representatives and
27 have actively participated in the prosecution of this case to date. They effectively communicated
28 with counsel, provided documents to counsel and participated in the investigation and negotiations

1 in the Action. Second, Plaintiffs retained competent counsel who are experienced in employment
2 class actions and who have no conflicts. Third, there is no antagonism between the interests of the
3 Plaintiffs and those of the Class. Both the Plaintiffs and the Class Members seek monetary relief
4 under the same set of facts and legal theories.

5 31. Blumenthal Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting
6 class action lawsuits and can competently represent the Class. Other lawyers at my firm and I have
7 extensive class litigation experience. We have handled a number of class actions and complex
8 cases and have acted both as counsel and as lead and co-lead counsel in a variety of these matters.
9 We have successfully prosecuted and obtained significant recoveries in numerous class action
10 lawsuits and other lawsuits involving complex issues of law and fact. My firm is particularly
11 experienced in wage and hour employment law class actions, including claims for misclassification,
12 overtime, expense reimbursement, unlawful deduction of wages, and missed rest and meal periods.
13 Blumenthal Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over
14 hundreds of wage and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has
15 been found to be adequate counsel by the courts throughout California. We have been approved as
16 experienced class counsel by both state and federal courts in California in contested class
17 certification proceedings. A true and correct copy of the resume of my firm is attached hereto as
18 Exhibit #2. Thus, the adequacy requirement is satisfied.

19 32. The Class Notice will include, among other information: (i) information regarding
20 the Action; (ii) the impact on the rights of the Class Members if they do not opt out; (iii)
21 information to the Class Members regarding how to opt out and how to object to the Settlement;
22 (iv) the estimated Settlement Share for each of the Class Members; (iii) the amount of attorneys'
23 fees and expenses to be sought; (v) the amount of the Plaintiffs' service award requests; and (vi) the
24 anticipated expenses of the Settlement Administrator. The Class Notice Packet mailed to the Class
25 Members will include a Spanish translation. (Agreement at ¶I(9).) The Class Notice will state that
26 the Class Members shall have forty-five (45) days from the date that the Notice is mailed to them to
27 request exclusion (opt-out), to submit an objection, or to dispute the weeks they were employed by
28 Defendant during the Class Period. (Agreement at ¶ III(42)(c).) In the event of a re-mailing, this

1 deadline will be extended by an additional 15 days. Class Members shall be given the opportunity
2 to object to the Settlement and/or requests for attorneys' fees and expenses and to appear at the
3 Final Approval Hearing. (Agreement at ¶ III(42)(c)(i).) Class Members who do not submit a
4 timely and proper request to opt-out will automatically receive a payment of their Settlement Share.
5 This notice program was designed to meaningfully reach the Class Members and it advises them of
6 all pertinent information concerning the Settlement. The mailing and distribution of the Class
7 Notice satisfies the requirements of due process, and is the best notice practicable under the
8 circumstances and constitutes due and sufficient notice to all persons entitled thereto.

9 33. The PAGA Claims -

10 a. **Approval of PAGA Settlements.** The decision in *O'Connor v. Uber*, 201
11 F.Supp.3d 1110, 1133 (N.D. Cal. 2016), and the LWDA's Response therein is illustrative. The
12 LWDA first states that "when viewing the monetary relief allocated to PAGA claims under a
13 settlement, the LWDA recognizes that the PAGA sum need not necessarily be viewed through the
14 same lens as the relief obtained by absent class members on other claims (i.e., the percentage of
15 recovery-to-exposure on the PAGA claims need not necessarily equal the percentage of recovery on
16 the other claims)." (LWDA Response at p.3). The LWDA also indicated that the payment of
17 money to the aggrieved employees furthers the purposes of PAGA and that the Court considers that
18 primary consideration. "The LWDA recognizes that this Court does not review the PAGA
19 allocation in isolation, but rather reviews the settlement as a whole, to determine whether it is
20 fundamentally fair, reasonable and adequate, with primary consideration for the interests of absent
21 class members." (LWDA Response at p.4).

22 b. **Valuation of the PAGA Claim for Aggrieved Employees.** For mediation,
23 Plaintiffs' calculated the value of the alleged PAGA claim as to Aggrieved Employees for civil
24 penalties to be between \$1,702,850 and \$3,405,700 for a single violation in every one of the 34,057
25 pay periods at issue in the PAGA Period, depending on whether the violation was \$50 per pay
26 period as in the case of Labor Code § 558(a)(1) or the standard amount of \$100 per pay period for
27 violation of Labor Code § 1198. This valuation assumed that PAGA civil penalties would be
28 awarded at the maximum rate per pay period but without stacking. The PAGA allocation in the

1 Settlement is the amount of \$50,000. This allocation is justified by several important
2 considerations. First, the PAGA claim was subject to the same risks as the underlying class claims.
3 Second, Defendant asserted additional defenses to the PAGA claim, not only as to liability but also
4 as to the amount of the penalties. Defendant could also argue that no penalties prior to the PAGA
5 notification should be awarded, and I am aware of one Court which has so ruled. These additional
6 defenses present a risk to the PAGA claim and the potential that some or all of the PAGA penalties
7 sought may not be awarded. Third, civil penalties may not be awarded at the maximum rate. In
8 *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the court affirmed a judgment which
9 only provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any PAGA penalties
10 awarded could be significantly less than Plaintiffs' calculation even where Plaintiffs prevailed on
11 the PAGA claim. Even if we assume that violations for all 34,057 pay periods were established,
12 using the valuation from *Carrington* results in a more realistic recovery of \$170,285 under PAGA.
13 This means that the \$50,000 PAGA allocation is a reasonable percentage of this potential PAGA
14 recovery. Fourth, the interests of PAGA are also served by the Class recovery under the reasoning
15 of the LWDA in *O'Connor v. Uber*.

16 c. **Similar PAGA Settlements.** In reaching the settlement of the PAGA claim,
17 Class Counsel was also aware of what allocations other Courts have approved for similar PAGA
18 settlements as compared to the total settlement amount. A class settlement that allocates
19 approximately 1% of the total settlement value to resolve the PAGA claims applicable to the class
20 is also supported by what has been approved in other wage-and-hour class settlements. Indeed,
21 Courts typically approve PAGA settlement amounts in the range of between .27 to 1.7 percent of
22 the total settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015)
23 (PAGA Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated*
24 *Logistics, Inc.*, 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for
25 PAGA on a \$1.5 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637
26 (N.D. Cal. 2015) (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs,*
27 *Inc.*, 2014 U.S. Dist Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA
28 for PAGA out of \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL

672645, *1 (N.D. Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9 million common-fund settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, *13 (E.D. Cal. 2012) (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million common-fund settlement); *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *9 (N.D. Cal. 2009) (approving PAGA allocation that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon Trucking, Inc.*, 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement of \$3,700,000, with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*, CV 10-02420 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount of \$8.25 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay*, 8:10-cv-00112-DOC (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000 allocated to PAGA); *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted as PAGA penalties or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive Educational Services Inc.*, Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000 allotted as PAGA penalties or 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell Banker Residential Brokerage Company*, Los Angeles Superior Court Case No. BC495767 (2016) (\$10,000 allotted as PAGA penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los Robles Medical Center*, No. 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.40% of \$3,775,000 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441 (E.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount); *Nehrlich v. RPM Mortgage Inc.*, Orange County Superior Court Case No. 30-2013-00666783-CU-OE-CXC (2017) (\$10,000 allotted as PAGA penalties or 0.40% of \$2,500,000 settlement amount); *Rubio v. KTI Incorporated*, San Bernardino Superior Court Case No. CIVDS-14-06132 (2015) (\$1,000 allotted as PAGA penalties or 0.18% of \$550,000 settlement amount); *Gray v. Mountain View Child Care Inc.*, San Bernardino Superior Court Case No. CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA penalties or 0.37% of \$675,000 settlement amount); *Perez v. West Coast Liquidators Inc. d/b/a Big Lots*, San Bernardino Superior Court Case No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA penalties or 0.33% of \$900,000 settlement amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles Superior Court No. BC471369 (2013)

1 (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000 settlement amount); *Mejia v. DHL*
2 *Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000 allotted as PAGA penalties or
3 0.34% of \$1,450,000 settlement amount).

4
5 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third (1/3) of the
6 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and
7 reasonable. At the time of final approval, my firm will present lodestar with detailed billing
8 information to further support the reasonableness of the requested fee award. My firm has been
9 regularly awarded attorney's fees equal to one-third of the common fund in Court-approved wage
10 and hour class settlements. Some of the class action awards obtained by Class Counsel in similar
11 employment actions throughout the state bear out the reasonableness of a fee and costs award
12 equivalent to one-third (1/3) of the total settlement value: On June 14, 2017, in *Smith v. Space*
13 *Exploration* (Los Angeles Superior Court Case No. BC554258), Judge Elihu Berle awarded Class
14 Counsel a 1/3 fee award in a wage and hour class settlement. On March 23, 2018, in *Bailey v.*
15 *Redfin*, (Los Angeles Superior Court, Case No. BC512191, the Court awarded a 1/3 fee award in a
16 wage and hour class settlement. On July 10, 2018, in *Zirpolo v. UAG Stevens Creek II* (Santa Clara
17 Superior Court Case No. 17CV313457, Judge Brian Walsh awarded Class Counsel a one-third fee
18 award in a wage and hour class settlement. On July 19, 2018, in *Metrow v. Liberty Mutual*,
19 (U.S.D.C. Central District of California Case No. EDCV 16-01133-JGB), the District Court
20 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December 4,
21 2018, in *Panda Express Wage and Hour Cases* (Los Angeles Superior Court, Case No. JCCP 4919)
22 Judge Carolyn Kuhl awarded Class Counsel a one-third fee award in a wage and hour class
23 settlement. On February 1, 2019, in *Solarcity Wage and Hour Cases* (San Mateo Superior Court,
24 Case No. JCCP 4945) Judge Marie Weiner awarded Class Counsel a one-third fee award in a wage
25 and hour class settlement. On July 30, 2019, in *Erickson v. John Muir Health*, (Contra Costa
26 Superior Court Case No. MSC18-00307) Judge Edward Weil awarded Class Counsel a one-third
27 fee award in a wage and hour class settlement. On December 18, 2019, in *Velasco v. Lemonade*
28 *Restaurant Group*, (Los Angeles Superior Court Case No. BC672235) Judge William Highberger

1 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On January 31,
2 2020, in *El Pollo Loco Wage and Hour Cases* (Orange County Superior Court Case No. JCCP
3 4957) Judge William Claster awarded Class Counsel a one-third award in a wage and hour class
4 settlement. On February 11, 2020, in *Singh v. Total Renal Care* (San Francisco Superior Court
5 Case No. CGC-16-550847) Judge Ethan Schulman awarded Class Counsel a one-third award in a
6 wage and hour class settlement. On October 23, 2020, in *Ontiveros v. Baker Concrete*, (Santa Clara
7 Superior Court Case No. 18CV328679) Judge Brian Walsh awarded Class Counsel a one-third fee
8 award in a wage and hour class settlement. On December 3, 2020, in *Blackshear v. California Fine*
9 *Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-00245842) Judge Christopher
10 Krueger awarded BNBD a one-third fee award in a wage and hour class settlement. On April 15,
11 2021, in *Epstein v. Walgreens* (U.S.D.C. Central District of California, Case No. 5:19-cv-01323)
12 District Judge David Carter awarded Class Counsel a one-third fee award in a wage and hour class
13 settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case No.
14 BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third fee award in a wage and hour
15 class settlement. On September 24, 2021, in *Prologistics Wage and Hour Cases* (Los Angeles
16 Superior Court Case No. JCCP 4881), Judge William Claster awarded Class Counsel a one-third fee
17 award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage and Hour*
18 *Cases* (Los Angeles Superior Court Case No. JCCP4837) Judge David Cunningham awarded a
19 one-third fee award in a wage and hour class settlement. On November 17, 2021, in *Leon v. Sierra*
20 *Aluminum Company* (San Bernardino Superior Court Case No. CIVDS2010856) Judge David Cohn
21 awarded a one-third fee award in a wage and hour class settlement. On March 17, 2022, in *See's*
22 *Candies Wage and Hour Cases* (Los Angeles Superior Court Case No. JCCP5004) Judge Maren
23 Nelson awarded a one-third fee award in a wage and hour class action settlement. On April 12,
24 2022, in *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No. CGC-20-587665) Judge
25 Richard Ulmer awarded a one-third fee award in a wage and hour class action settlement. On April
26 26, 2022, in *Jauregui v. Cytec*, (U.S.D.C. Central District of Cal. Case No. 8:20-cv-02440-DOC),
27 District Judge David Carter awarded a one-third fee award in a wage and hour class action. On
28 May 23, 2022, in *Ettedgui v. WB Studio Enterprises Inc.*, (U.S.D.C. Central District of Cal. Case

No. 2:20-cv-08053-MCS-JDE) District Judge Mark C. Scarsi awarded a one-third fee award in a wage and hour class action settlement. On April 12, 2022, in *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No. CGC-20-587665) Judge Richard Ulmer awarded a one-third fee award in a wage and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v. Prometric LLC* (Los Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson awarded a one-third fee award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D Carwash Management LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement. On August 10, 2022, in *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court Case No. 34-2017-00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v. Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class action settlement. On November 4, 2022, in *Infinity Energy Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge Keri Katz awarded a one-third fee award in a wage and hour class action settlement. A fee award equal to one-third of the common fund is therefore reasonable in light of the fees that have been awarded in other similar cases.

35. Class Representative Service Payments - The reasonableness of the requested service award is also established by reference to the amounts that other California courts have found to be reasonable in wage and hour class action settlements: *Zamora v. Balboa Life & Casualty, LLC*, Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding \$25,000 service award); *Aguiar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP (AJWx)(C.D. Cal. Mar. 17, 2011)(awarding \$14,767 service award); *Magee v. American Residential Services, LLC*, Case No. BC423798, Los Angeles County Superior Court (Apr. 21, 2011)(awarding \$15,000 service award); *Mares v. BFS Retail & Commercial Operations, LLC*, Case No. BC375967, Los Angeles County Superior Court (June 24, 2010)(awarding \$15,000 service award); *Baker v. L.A. Fitness Int'l, LLC*, Case No. BC438654, L.A. County Superior Court (Dec. 12, 2012)(awarding \$10,000 service

1 awards to three named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*, Case No.
2 BC417335, Los Angeles County Superior Court (Mar. 21, 2011)(awarding \$10,000 service award);
3 *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795, Los Angeles County Superior Court (June,
4 11, 2010)(awarding \$10,000 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No.
5 BC429042, Los Angeles County Superior Court (Oct. 3, 2013)(awarding \$10,000 service award);
6 *Ethridge v. Universal Health Services, Inc.*, Case No. BC391958, Los Angeles County Superior
7 Court (May 27, 2011)(awarding \$10,000 service award); *Hickson v. South Coast Auto Ins.*
8 *Marketing, Inc.*, Case No. BC390395, Los Angeles County Superior Court (Mar. 27,
9 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*, Case No. BC422934, Los
10 Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service award); *Kambamba v.*
11 *Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County Superior Court, (Aug. 19,
12 2011)(awarding \$10,000 service award together with additional compensation for their general
13 release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los Angeles County Superior Court
14 (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose Hills Mortuary, L.P.*, Case No.
15 BC386500, Los Angeles County Superior Court, (Mar. 19, 2010)(awarding \$10,000 service award);
16 *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No. BC440282, Los Angeles County Superior
17 Court (Feb. 22, 2013)(awarding \$10,000 service award); *Silva v. Catholic Mortuary Services, Inc.*,
18 Case No. BC408054, Los Angeles County Superior Court (Feb. 8, 2011)(awarding \$10,000
19 enhancement award); *Weisbarth v. Banc West Investment Services, Inc.*, Case No. BC422202, Los
20 Angeles County Superior Court (May 24, 2013)(awarding \$10,000 service award); *Lazar v. Kaiser*
21 *Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara County Superior Court (Dec. 28,
22 2015) (awarding \$10,000 service award); *Acheson v. Express, LLC*, Case No. 109CV135335, Santa
23 Clara County Superior Court (Sept. 13, 2011)(awarding \$10,000 service award); *Bejarano v.*
24 *Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL (Opx)(C.D. Cal. June 22,
25 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS
26 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award);
27 *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding
28 \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside

1 County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security*
2 *Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000
3 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange
4 County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security*
5 *Services, LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23,
6 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior
7 Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The*
8 *Inductrial Complany*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug.
9 1, 2018) (awarding \$10,000 service award).

10
11 36. Settlement Administration - After obtaining multiple bids, the estimate from
12 Simpluris was selected, as it provided for an capped estimate of \$12,000 to perform the settlement
13 administration. A true and correct copy of the estimate from Simpluris is attached hereto as Exhibit
14 #3. I have used Simpluris successfully as the administrator in more than twenty class settlements in
15 the last several years and know them to be competent and experienced.

16
17 I declare under penalty of perjury under the laws of the State of California that the foregoing
18 is true and correct. Executed this 19th day of January, 2023, at La Jolla, California.

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21 By: /s/ Kyle Nordrehaug
22 Kyle Nordrehaug
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CLASS ACTION SETTLEMENT AGREEMENT

This Class and Representative Action Settlement Agreement (“Agreement”) is made by and between plaintiffs Angelo Kalaveras and Emad Missreezadah (“Plaintiffs”) and defendant NCR Corporation (“Defendant”). Plaintiffs and Defendant collectively are referred to in this Agreement as the “Parties.”

I. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

1. “Action” means the operative complaint filed in *Kalaveras and Missreezadah v. NCR Corporation*, Case No. MSC20-01186, pending in Superior Court of the State of California, County of Contra Costa. The Parties hereto, by and through their respective counsel, have stipulated to the filing of the Fourth Amended Complaint as the operative complaint in this Action.
2. “Aggrieved Employees” means all individuals who were employed by Defendant in California as hourly, non-exempt employees during the PAGA Period, regardless of whether they submit an Election Not to Participate in Settlement.
3. “Class” means all individuals who were employed by Defendant in California as hourly, non-exempt employees during the Class Period.
4. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP and Robert J. Wasserman and Jenny D. Baysinger of Mayall Hurley P.C.
5. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.
6. “Class Data” means, for each Class Member and Aggrieved Employee, his or her first and last name; last-known mailing address; Social Security number; his or her employee identification number; and his or her weeks employed during the Class Period as a Class Member and pay periods he or she was employed during the PAGA Period as an Aggrieved Employee.
7. “Class Member” is a member of the Class.
8. “Class Notice” means the Notice of Proposed Settlement of Class Action and Hearing Date for Final Court Approval substantively in the form attached hereto as Exhibit A to this Agreement and incorporated by reference into this Agreement.

9. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Settlement Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Settlement Administrator).
10. “Class Period” means the period of time from June 25, 2019 through July 19, 2022.
11. “Class Representative Service Payment” means the service payment made to each of the Plaintiffs in their capacity as Class Representative in order to compensate them for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses in the event Plaintiffs were unsuccessful in the prosecution of the Action, and for the general release of all claims by the Plaintiffs.
12. “Court” means the Superior Court of California, County of Contra Costa.
13. “Defendant” means NCR Corporation.
14. “Defendant’s Counsel” means Jennifer B. Zargarof and Daniel R. Rodriguez of Morgan, Lewis & Bockius LLP.
15. “Effective Date” means the date by which all of the following have occurred:
 1. This Agreement is approved by the Court; and
 2. The Judgment becomes Final as defined in Section 17 of this Agreement.
16. “Election Not to Participate in Settlement” means the written request by a Class Member to exclude himself or herself from the Settlement submitted in accordance with the instructions in the Class Notice.
17. “Final” means the last of the following dates, as applicable:
 1. Regardless of whether an objection to the Settlement is made, if no appeal of the Court’s Judgment is filed, the last date on which a notice of appeal from the Judgment may be filed and none is filed.
 2. If the Judgment is entered and a timely appeal from the Judgment is filed, the date the Judgment is affirmed and is no longer subject to appeal.
18. “Final Approval Hearing” means the hearing to be conducted by the Court to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
19. “Gross Settlement Amount” means One Million Dollars (\$1,000,000) to be paid by Defendant as provided by this Agreement. This Gross Settlement Amount is an all-in amount without any reversion to Defendant and shall be inclusive of all payments of Settlement Shares to the Participating Class Members (Class Members who timely submit an Election Not to Participate in Settlement are still bound by the Released PAGA Claims and shall receive his or her *pro rata* portion

of the Individual PAGA Payment), Settlement Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the PAGA Payment, and excluding any employer payroll taxes, if any, due on the portion of the Settlement Shares allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant. The Gross Settlement Amount is all in with no reversion to Defendant and shall be paid without the need to submit a claim form.

20. "Individual PAGA Payment" means each Aggrieved Employee's share of the portion of the PAGA Payment allocated to Aggrieved Employees, to be calculated pro rata based on a Aggrieved Employee's respective pay periods employed by Defendant during the PAGA Period.
21. "Judgment" means the Final Approval Order and Judgment entered by the Court substantially in the forms attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
22. "Net Settlement Amount" means the Gross Settlement Amount less the Court-approved amounts for the Class Representative Service Payments, the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the PAGA Payment, and the Settlement Administration Expenses.
23. "Non-Participating Class Member" means a Class Member who submits a valid and timely Election Not to Participate in Settlement.
24. "PAGA" refers to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2699, et seq.
25. "PAGA Payment" means the sum of \$50,000 to be paid out of the Gross Settlement Amount, designated by the Parties as PAGA civil penalties. 75% (or \$37,500.00) of the PAGA Payment shall be allocated to the LWDA as the LWDA's share of the settlement of civil penalties paid under this Agreement, and 25% (\$12,500.00) shall be distributed to Aggrieved Employees based on their respective pay periods employed during the PAGA Period.
26. "PAGA Period" means the period of time from June 25, 2019 through July 19, 2022.
27. "Participating Class Member" means a Class Member who does not submit a valid and timely Election Not to Participate in Settlement.
28. "Preliminary Approval of the Settlement" means the Court's Order Granting Preliminary Approval of the Settlement substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
29. "Released Class Claims" shall refer to all class claims and/or causes of action by Class Members against the Released Parties that were plead or which could have been pled based on the factual allegations contained in the operative complaints and PAGA letters previously submitted by Plaintiffs to the LWDA, which

occurred during the Class Period, including claims under Labor Code sections 201-204, 210, 226, 226.3, 226.7, 233, 245, 246, 248.5, 256, 510, 512, 558, 1194, 1197, 1197.1, 1198, and 2802, and including claims under Business and Professions Code section 17200, et seq., and expressly excluding all other claims, including claims for vested health insurance benefits, wrongful termination, unemployment insurance, disability insurance, social security, workers' compensation, and claims outside the Class Period.

30. "Released PAGA Claims" shall refer to all claims and/or causes of action by Aggrieved Employees against the Released Parties that were seeking to assess and collect civil penalties that were pled or which could have been pled based on the factual allegations contained in the operative complaints and PAGA letters submitted by Plaintiffs to the LWDA, which occurred during the PAGA Period as to the Aggrieved Employees, including claims under Labor Code sections 201-204, 210, 226, 226.3, 226.7, 233, 245, 246, 248.5, 256, 351, 510, 512, 558, 1194, 1197, 1197.1, 1198, and 2802. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims seeking relief other than civil penalties, claims for vested health insurance benefits, wrongful termination, unemployment insurance, disability insurance, social security, worker's compensation, and claims outside of the PAGA Period. Regardless of whether any Class Member submits an Election Not to Participate in Settlement, they will still be bound the Released PAGA Claims.
31. "Released Parties" collectively mean: Defendant, and its parent, predecessor, successor, subsidiary and affiliated companies and entities, and each of the foregoing companies; and entities' respective divisions, officers directors, shareholders, partners, limited partners, agents, employees, managers, members, trustees, representatives, independent contractors, payroll companies, temporary staffing agencies, attorneys, insurers, owners, licenses, indemnitees, representatives, successors and assigns, past and present.
32. "Settlement" means the disposition of the Action and all related claims effectuated by this Agreement.
33. "Settlement Administrator" means the third-party settlement administrator proposed by the Parties, as approved by the Court.
34. "Settlement Share" means each Participating Class Member's share of the Net Settlement Amount as provided by this Agreement.

II. RECITALS

35. On June 25, 2020, Plaintiff Angelo Kalaveras sent a letter to the LWDA notifying it that Plaintiff Kalaveras intended to pursue claims against Defendant under PAGA for violation of California Labor Code sections 201-204, 226, 226.7, 233, 246, 510, 512, and 1198.
36. On June 25, 2020, Plaintiff Kalaveras filed a Complaint against Defendant in the Superior Court of the State of California, County of Contra Costa, Case No. C20-

01186 (“Kalaveras Action”). Plaintiff Kalaveras asserted class and collective action claims that Defendant:

- a. Failed to properly calculate and pay overtime (Fair Labor Standards Act and California Labor Code §§ 510 and 1198);
- b. Failed to provide meal breaks (California Labor Code §§ 226.7 and 512);
- c. Failed to provide rest breaks (California Labor Code § 226.7);
- d. Failed to furnish accurate itemized wage statements (California Labor Code § 226);
- e. Failed to pay all wages at cessation of employment ((California Labor Code §§ 201, et seq.); and
- f. Committed unlawful business practices (California Business and Professions Code § 17200 et seq.).

37. On August 31, 2020, Plaintiff Kalaveras filed a First Amended Complaint in the Kalaveras Action, adding a cause of action alleging Defendant’s violation of the Private Attorneys General Act (“PAGA”).

38. On January 7, 2021, Plaintiff Emad Missreezadah sent a letter to the LWDA notifying it that Plaintiff Missreezadah intended to pursue claims against Defendant under PAGA for violations of California Labor Code sections 201-204, 210, 226, 226.7, 351, 510, 512, 558, 1194, 1197, 1197.1, 1198, and 2802.

39. On January 19, 2021, Plaintiff Emad Missreezadah filed a Complaint against Defendant in the Superior Court of the State of California, County of Los Angeles (“Missreezadah Class Action”). Plaintiff Missreezadah asserted class action claims that Defendant:

- a. Violated California Business and Professions Code § 17200 *et seq.*;
- b. Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1;
- c. Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*;
- d. Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- e. Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- f. Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;

- g. Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203; and
- 40. On April 2, 2021, Defendant removed the Missreezadah Class Action to the United States District Court, Central District of California. Based on the arbitration agreement signed by Plaintiff Missreezadah during her employment with Defendant, on May 28, 2021, Defendant and Plaintiff Missreezadah stipulated to dismiss the Missreezadah Class Action, which was granted on June 1, 2021.
- 41. On May 11, 2021, Plaintiff Emad Missreezadah filed a Complaint against Defendant in the Superior Court of the State of California, County of Los Angeles (“Missreezadah PAGA Action”). Plaintiff Missreezadah asserted the single claim that Defendant:
 - a. Violated the Private Attorney General Act, Cal. Labor Code §§ 2698, *et seq.* (“PAGA”).
- 42. On November 17, 2021, the Los Angeles Superior Court granted Plaintiff Missreezadah’s request for dismissal without prejudice of the Missreezadah PAGA Action.
- 43. On October 25, 2021, Plaintiffs filed a Third Amended Complaint in the Kalaveras Action, adding Plaintiff Missreezadah as a named plaintiff, and pursuing a single cause of action brought pursuant to PAGA.
- 44. On April 19, 2022, the Parties participated in an all-day mediation presided over by Mark Rudy, a respected mediator of wage and hour representative and class actions. Prior to the mediation, sufficient discovery was conducted to investigate the claims, Defendant’s liability, and class-wide damages, including, but not limited to the following: Plaintiffs requested and Defendant produced extensive documentation including time and pay data, policy documents, information concerning the total number of alleged Class Members and Aggrieved Employees employed during the Class Period and PAGA Period, and information on the number of weeks Class Members were employed during the Class Period and the number of pay periods Aggrieved Employees were employed during the PAGA Period. The Parties reached an agreement in principle at the close of the mediation. The agreement was ultimately memorialized in the form of a Memorandum of Understanding executed May 9, 2022.
- 45. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.
- 46. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiffs or the Class or the Aggrieved Employees have merit or that Defendant bears any liability to Plaintiffs or the Class or the Aggrieved Employees on those claims or any other claims, or as an admission by Plaintiffs that Defendant’s defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this

Settlement only. The Parties stipulate that the Court is the proper forum for purposes of seeking court approval of the settlement of Released Class Claims and Released PAGA Claims. If for any reason the Effective Date does not occur, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.

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

III. SETTLEMENT TERMS AND CONDITIONS

47. **Fourth Amended Complaint.** The Parties hereto, by and through their respective counsel, have stipulated to the filing of, and filed, the Fourth Amended Complaint as the operative complaint in this Action.
48. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Gross Settlement Amount that Defendant will pay under this Settlement is One Million Dollars (\$1,000,000). This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Settlement Shares allocated to wages which shall be separately paid by Defendant to the Settlement Administrator. All of the Gross Settlement Amount will be disbursed pursuant to this Agreement without the need to submit a claim form and none of the Gross Settlement Amount will revert to Defendant.
49. **Payments from the Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Gross Settlement Amount:
 - a. **To Plaintiffs:** In addition to the Settlement Shares and Individual PAGA Payments to be paid to Plaintiffs, Plaintiffs will apply to the Court for an award of not more than \$10,000 each as Class Representative Service Payments, which is a combined total of \$20,000 in Class Representative Service Payments. Defendant will not oppose Class Representative Service Payments of no more than \$10,000 for each of the Plaintiffs. The Settlement Administrator will pay the Class Representative Service Payments approved by the Court out of the Gross Settlement Amount. If the Court approves a Class Representative Service Payments of less than \$10,000, for each of the Plaintiffs, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. Payroll tax withholding and deductions will not be taken from the Class Representative Service Payments and instead a Form 1099 will be issued to each of the Plaintiffs with respect to the payments who will assume full responsibility and liability for the taxes due on their Class Representative Service Payments. To receive the payments, Plaintiffs agree to a Code of Civil Procedure section 1542 waiver and a general release of all claims, excluding any claims that they cannot release as a matter of law.
 - b. **To Class Counsel:** Class Counsel will apply to the Court for an award of not more than One-Third of the Gross Settlement Amount, which is presently \$333,333.33, as their Class Counsel Fees Payment and an

amount not more than \$21,000 for all expenses incurred as documented in Class Counsel's billing records as their Class Counsel Litigation Expenses Payment. Defendant will not oppose their request for a Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment consistent with this Agreement and approved by the Court. The Settlement Administrator will pay the amounts approved by the Court out of the Gross Settlement Amount. If the Court approves a Class Counsel Fees Payment or a Class Counsel Litigation Expenses Payment of less than these amounts, which are presently \$333,333.33, and \$21,000 respectively, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. Payroll tax withholding and deductions, if any, will not be taken from the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment and instead one or more Forms 1099 will be issued to Class Counsel with respect to those payments. The payment of the Class Counsel Fees Payment shall be paid 50% to Blumenthal Nordrehaug Bhowmik De Blouw LLP and 50% to Mayall Hurley P.C. Class Counsel Litigation Expenses Payment shall be made to the Class Counsel who incurred the approved expenses based upon the declarations submitted by Class Counsel.

- c. **The PAGA Payment.** The Parties will seek approval from the Court for the PAGA Payment of \$50,000 out of the Gross Settlement Amount, which shall be allocated 75% (\$37,500) to the LWDA as the LWDA's share of the settlement of civil penalties paid under this Agreement pursuant to the PAGA and 25% (\$12,500) will be distributed to the Aggrieved Employees as Individual PAGA Payments based on their respective pay periods employed during the PAGA Period. If the Court approves a PAGA Payment of less than \$50,000, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. All Aggrieved Employees will be sent their share of the Individual PAGA Payment and will be subject to the release of the Released PAGA Claims as set forth below, whether or not they submit an Election Not to Participate in Settlement. One hundred percent (100%) of the PAGA Payment is in settlement of claims for civil penalties and not subject to wage withholdings, and shall be reported on IRS Form 1099.
- d. **To the Settlement Administrator.** The Settlement Administrator will pay out of the Gross Settlement Amount to itself its reasonable fees and expenses that are documented and approved by the Court in an amount not to exceed \$15,000 ("Settlement Administration Expenses"). To the extent the Settlement Administration Expenses that are documented and approved by the Court are less than \$15,000, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members.

- 50. **Payments From the Net Settlement Amount.** The Net Settlement Amount shall include the following payments after the deductions have been made from the Gross Settlement Amount as described in this Agreement. The Net Settlement Amount shall include the following:

- a. **Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay a Settlement Share from the Net Settlement Amount to each Participating Class Member. The submission of a claim form is not required for a Participating Class Member to be paid his or her Settlement Share.
- b. **Calculation.** Each Participating Class Member will be entitled, provisionally, to a share or shares of the Net Settlement Amount. The Settlement Share for each Participating Class Member will be calculated as follows: (i) Defendant shall provide the Settlement Administrator with the Class Data; (ii) the Settlement Administrator shall then divide the Net Settlement Amount by the total number of weeks employed during the Class Period by Participating Class Members to determine a dollar amount per week (“Weekly Rate”); and (iii) the Settlement Administrator shall then take the number of weeks employed by each Participating Class Member during the Class Period and multiply it by the Weekly Rate to calculate their Settlement Share.
- c. **Withholding.**
 - i. Subject to approval by the Court, Twenty-Five Percent of each Participating Class Member’s Settlement Share is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2 and shall be paid for from the Gross Settlement Amount. The Settlement Administrator shall be responsible for remitting to the tax authorities employees’ and employer’s share of all payroll taxes on the Wage Portion.
 - ii. Subject to approval by the Court, Seventy-Five Percent of each Participating Class Member’s Settlement Share is in settlement of claims for interest and claims for penalties allegedly due to Participating Class Members (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings, and shall be reported on IRS Form 1099.
- d. **Effect of Non-Participating Class Members.** Non-Participating Class Members will receive no Settlement Share, and their Election Not to Participate in Settlement will not reduce the Gross Settlement Amount or the Net Settlement Amount. Their respective Settlement Shares will remain a part of the Net Settlement Amount for distribution to Participating Class Members on a *pro rata* basis relative to their Settlement Shares. However, since there is no right to opt out of a PAGA settlement, each Non-Participating Class Member shall receive his or her *pro rata* portion of the Individual PAGA Payment.
- e. **Class Size Modification.** Defendant has represented that the Class consists of approximately 65,747 weeks through April 19, 2022. In regard hereto, Defendant will provide a declaration under penalty of perjury prior to the filing of the motion for preliminary approval confirming the number

of Class Members and work weeks they were employed during the Class Period. If the actual number of workweeks for all Class Members during the Class Period should exceed 65,747 by more than ten percent (10%), the Gross Settlement Amount shall be increased by the percentage difference and the actual number of workweeks over 10% that accrued. By example, if the total number of workweeks the Class Members were employed during the Class Period is determined to be 11% higher than 65,747, the Gross Settlement Amount will be increased by 1%.

51. **Appointment of Settlement Administrator.** After obtaining a quote from mutually acceptable and qualified settlement administrators, the Parties have mutually agreed to ask the Court to appoint Simpluris as the qualified administrator, to serve as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number to receive calls from Class Members; receiving and reviewing for validity completed Elections Not to Participate in Settlement; providing the Parties with weekly status reports about the delivery of the Class Notice Packets and receipt of completed Elections Not to Participate in Settlement; calculating Settlement Shares; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. If there is a dispute concerning the calculation of a Participating Class Member's Settlement Share, the Settlement Administrator shall consult with the Parties to determine whether an adjustment is warranted. Defendant's records will be given a rebuttable presumption of accuracy. The Settlement Administration Expenses, including the cost of printing and mailing the Class Notice Packet, will be paid out of the Gross Settlement Amount.

The Settlement Administrator shall have its own Employer Identification Number under Internal Revenue Service Form W-9 and shall use its own Employer Identification Number in calculating payroll withholdings for taxes and shall transmit the required employers' and employees' share of the withholdings to the appropriate state and federal tax authorities. The Settlement Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1. The Settlement Administrator will also inform Defendant of the amount to be transmitted to the QSF to pay for the employer's share of payroll taxes.

52. **Procedure for Approving Settlement.**

a. **Motion for Preliminary Approval of Settlement by the Court.**

- i. After Execution of this Settlement Agreement, Plaintiffs will file a Preliminary Approval Motion with the Court for an order granting

Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice (the “Motion for Preliminary Approval”). Any disagreement among the Parties concerning the Class Notice, the proposed orders, or other documents necessary to implement the Settlement will be referred to the mediator for resolution. Class Counsel agrees to provide Defendant’s Counsel with drafts of the Motion for Preliminary Approval and any other documents they intend to submit in support of their Motion for Preliminary Approval at least five (5) court days in advance of the filing of such documents to allow Defendant’s Counsel reasonable time to review and comment on such papers and further agree to reasonably incorporate the comments from Defendant’s Counsel. The Parties agree to work diligently and cooperatively to have this Agreement presented to the Court for preliminary approval.

- ii. At the hearing on the Motion for Preliminary Approval, the Parties will jointly appear, support the granting of the motion, and submit an Order Granting Preliminary Approval of the Settlement substantially in the form evidenced by Exhibit B to this Agreement and incorporated by reference into this Agreement.
- iii. Should the Court decline to preliminarily approve material aspects of the Settlement (including but not limited to the scope of release to be granted by Participating Class Members or the binding effect of the Settlement on Participating Class Members), the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Settlement for the Court’s approval.

- b. **Notice to Class Members.** After the Court enters an Order Granting Preliminary Approval of the Settlement, every Class Member will be sent the Class Notice Packet (which will include the Class Notice completed to reflect the Order Granting Preliminary Approval of the Settlement and showing the Class Member’s Settlement Share) as follows:

- i. No later than thirty (30) days after the Court enters an Order Granting Preliminary Approval of the Settlement, Defendant will, to the extent possible, provide to the Settlement Administrator the Class Data. If any or all of the Class Data is unavailable to Defendant, Defendant will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon the Class Data prior to when it must be submitted to the Settlement Administrator. The Class Data will otherwise remain confidential and will not be disclosed to anyone, including Class Counsel, except as required to applicable taxing authorities, in order to carry out the reasonable efforts described below, or pursuant to Defendant’s express written authorization or by order of the Court. All Class Data will be used for settlement notification and

settlement administration and shall not be used for any other purpose. The Parties agree that the Class Data will not be used to solicit Class members to file any claim, charge or complaint of any kind whatsoever against Defendant or the Released Parties and will only be used by the Settlement Administrator to administer the Agreement under the terms provided herein. This provision shall not be construed to impede Class Counsel's ability to discharge their fiduciary duties to the Class, and if additional disclosures are necessary, Class Counsel will obtain written authorization of Defendant and/or an order from the Court.

- ii. The Settlement Administrator shall update the Class Data using the National Change of Address database prior to mailing the Class Notice Packets. Using best efforts to mail it as soon as possible, and in no event later than 14 calendar days after receiving the Class Data, the Settlement Administrator will mail the Class Notice Packets to all Class Members via first-class regular U.S. Mail using the mailing address information provided by Defendant, unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement. The Class Notice shall state that a Spanish translation of the Class Notice is available upon request.
- iii. If a Class Notice Packet is returned because of an incorrect address, the Settlement Administrator will search for a more current address and promptly re-mail the Class Notice Packet to the Class Member no later than seven (7) business days after the receipt of the undelivered Class Notice. The Settlement Administrator will use the Class Data and otherwise work with Defendant to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, Court orders, and fee, as agreed to with Class Counsel and according to the following deadlines, to trace the mailing address of any Class Member for whom a Class Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address using available social security numbers, credit reports, LinkedIn, and Facebook; and promptly re-mailing to Class Members for whom new addresses are found. If the Class Notice Packet is re-mailed, the response date for written objections, disputes and opt-outs will be extended an additional 15 calendar days from the original deadline, this extended response date will be set forth in the re-mailed Class Notice, and the Settlement Administrator will note for its own records and notify Class Counsel and Defendant's Counsel of the date and address of each such re-mailing as part of a weekly status report provided to the Parties.

- iv. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendant's Counsel of the number of Elections Not to Participate in Settlement it receives (including the numbers of valid and deficient), the number of disputes received, and number of objections received.
 - v. Not later than 10 calendar days before the date by which the Plaintiffs file the motion for final approval of the Settlement, the Settlement Administrator will provide the Parties for filing with the Court a declaration of due diligence setting forth its compliance with its obligations under this Agreement and detailing the Elections Not to Participate in Settlement it received (including the numbers of valid and deficient Elections), the number of disputes received, and objections received. Prior to the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.
- c. **Objections to Settlement; Disputes as to Workweeks allocated to Class Members; Elections Not to Participate in Settlement.** Participating Class Members may submit objections to the Settlement and/or objections to the Class Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment. Class Members may also submit disputes as to workweeks allocated to them and submit Elections Not to Participate in Settlement pursuant to the following procedures:
- i. **Objections to Settlement.** The Class Notice will provide that only Participating Class Members who wish to object to the Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or the Class Representative Service Payments may object to the proposed Settlement, either in writing or orally at the Final Approval Hearing. Objections in writing must be submitted to the Settlement Administrator, postmarked not later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets. The date of mailing on the envelope shall be deemed the exclusive means for determining if an objection was timely received. Written objections must (1) be signed by the Participating Class Member, (2) state the full name and address of the objecting Participating Class Member, (3) state the grounds for each objection made, and (4) state whether the Participating Class Member intends to appear at the Final Approval Hearing. If a Class Notice Packet is re-mailed, the response date for written objections will be extended an additional 15 calendar days. Written objections may also be faxed or emailed to the Settlement Administrator as indicated in the Class Notice. Participating Class Members shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) to orally object to the Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses

Payment, and/or the Class Representative Service Payments, even if they have not submitted a written objection. Any Participating Class Member who fails to submit a timely written objection or to present an objection at the Final Approval Hearing shall be deemed to have waived any objections and shall be foreclosed from making any objection to the Agreement whether by appeal or otherwise. Non-Participating Class Members shall have no ability to comment on or object to the Settlement.

- ii. **Disputes as to Workweeks.** Each Class Member shall also have forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets in which to dispute the number of weeks employed that the Class Notice allocates to them during the Class Period. The date of mailing on the envelope shall be deemed the exclusive means for determining if a dispute was timely received. A dispute may also be faxed or emailed to the Settlement Administrator as indicated in the Class Notice. Any notice of dispute shall be directed to the Settlement Administrator. If there is a dispute, the Settlement Administrator shall consult with the parties to determine whether an adjustment is warranted. Defendant's records will be given a rebuttable presumption of accuracy. If a Class Notice Packet is re-mailed, the response date for disputes will be extended an additional 15 calendar days.
- iii. **Election Not to Participate in Settlement.** The Class Notice also will provide that Class Members who wish to exclude themselves from the Settlement must mail to the Settlement Administrator a signed Election Not to Participate in Settlement that is postmarked no later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets. The date of mailing on the envelope shall be deemed the exclusive means for determining if an Election Not to Participate in Settlement was timely received. If a Class Notice Packet is re-mailed, the response date for opt-outs will be extended an additional 15 calendar days. To be valid, an Election Not to Participate in Settlement must be timely and must comply with the instructions in the Class Notice, including providing (1) the name and address of the Class Member requesting exclusion, (2) a statement expressing that the Class Member elects to be excluded from the Settlement, and (3) a signature by the Class Member. An Election Not to Participate in Settlement may also be faxed or emailed to the Settlement Administrator as indicated in the Class Notice. If a question is raised about the authenticity of a signed Election Not to Participate in Settlement, the Settlement Administrator will have the right to demand additional proof of the Class Member's identity. A Non-Participating Class Member will not participate in or be bound by the Settlement and the Judgment, except that an Aggrieved Employee will still be paid their Individual PAGA Payment and will remain bound by the release of the Released

PAGA Claims regardless of their Election Not to Participate in Settlement of the class claims. Defendant will remain free to contest any claim brought by any Class Member that would have been barred by this Agreement, and nothing in this Agreement will constitute or be construed as a waiver of any defense Defendant has or could assert against such a claim. A Class Member who does not complete and mail a timely Election Not to Participate in Settlement in the manner and by the deadline specified above and in the Class Notice will automatically become a Participating Class Member and will be bound by all terms and conditions of the Settlement, including the Released Class Claims by the Class, if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or she has objected to the Settlement. Persons who submit an Election Not to Participate in Settlement shall not be permitted to file objections to the Settlement or appear at the Final Approval Hearing to voice any objections to the Settlement.

All Participating Class Members who do not submit a valid and timely Election Not to Participate in Settlement will receive a Settlement Share, without the need to file a claim form, and will be bound by all of the terms of the Settlement, including without limitation, the release of the Released Class Claims by the Participating Class Members set forth in this Agreement.

iv. **Report.** Not later than ten (10) calendar days after the deadline for submission of Elections Not to Participate in Settlement, the Settlement Administrator will provide Class Counsel and Defendant's Counsel with a complete and accurate list of all Participating Class Members and all Non-Participating Class Members.

d. **Right of Defendant to Reject Settlement.** If the number of Class Members who timely submit valid Elections Not to Participate in Settlement exceeds three percent (3%) of the Class, Defendant, at its sole discretion, shall have the right but not the obligation to revoke the Settlement. Defendant shall exercise its revocation rights, if at all, within fourteen (14) calendar days after the Settlement Administrator notifying the parties, for the final time, of the number of valid Elections Not to Participate in Settlement by providing written notice to Class Counsel. If Defendant exercises its revocation rights, the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount, or any amounts that otherwise would have been owed under this Agreement, except that Settlement Administration Expenses as of the date that Defendant exercises the right to void the Settlement pursuant to this Paragraph will be paid by Defendant.

- e. **No Solicitation.** The Parties and their respective counsel represent that neither the Parties nor their respective counsel have or will solicit any Class Member to object to the Settlement, appeal from the Judgment, or elect not to participate in the Settlement.
- f. **Additional Briefing and Final Approval.**
 - i. Unless otherwise ordered by the Court, Class Counsel will file with the Court their motion for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payments no later than the date Plaintiffs file the Motion for Final Approval, and the application will be scheduled to be heard by the Court at the Final Approval Hearing.
 - ii. Not later than sixteen (16) court days before the Final Approval Hearing, the Plaintiffs will file with the Court the Motion for Final Approval of the Settlement. Class Counsel agrees to provide Defendant's Counsel with drafts of all documents they intend to submit in support of the Motion for Final Approval at least five (5) court days in advance of the filing to allow Defendant's Counsel reasonable time to review and comment on such papers and further agrees to reasonably incorporate the comments from Defendant's Counsel. The Parties must meet and confer and make all reasonable efforts to agree on any modifications to this Agreement that will result in entry of the Final Approval Order and Judgment, including a good faith attempt to address and/or cure any issues identified by the Court as necessary for final approval.
 - iii. If any opposition is filed to the Motion for Final Approval and/or the motion for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the PAGA Payment, then not later than five (5) court days before the Final Approval Hearing, both Parties may file a reply in support of the Motion for Final Approval, and Plaintiffs and Class Counsel may also file a reply in support of their motion for the Class Representative Service Payment, the Class Counsel Fees Payments, and the Class Counsel Litigation Expenses Payment.
 - iv. If the Court does not grant final approval of the Settlement or grants final approval conditioned on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members), then the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Settlement for the Court's approval. However, an award by the Court of a lesser amount than that sought by Plaintiffs and Class Counsel for the PAGA Payment, Class Representative Service Payments, the Class Counsel Fees Payment, or the Class Counsel Litigation Expenses Payment, will

not constitute a material modification to the Settlement within the meaning of this paragraph.

- v. Upon final approval of the Settlement by the Court at or after the Final Approval Hearing, the Parties will present for the Court's approval and entry the Judgment substantially in the form attached hereto as Exhibit C. After entry of the Judgment, the Court will have continuing jurisdiction over the Action and the Settlement solely for purposes of (i) enforcing this Agreement, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.
- vi. If this Agreement is deemed null and void or the Effective Date does not occur, Defendant does not waive, but rather expressly reserves, all rights to challenge Plaintiffs' Released PAGA Claims and Plaintiffs' Allegations in the operative complaint in the Action and the letters Plaintiffs submitted to the LWDA upon all procedural, merit, and factual grounds, including, without limitation, the ability to challenge representative treatment on any grounds, assert any and all other privileges and potential defenses, and enforce its representative action waiver (including waiver of Plaintiffs' non-individual PAGA claims) in its arbitration agreements.

53. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, Plaintiffs and Participating Class Members who did not timely submit an objection to the Settlement, Defendant, and their respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to vacate judgment, a motion for new trial, and any extraordinary writ. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings. If an appeal is taken from the Judgment, the time for consummation of the Settlement (including making payments under the Settlement) will be suspended until such time as the appeal is finally resolved and the Judgment becomes Final.

54. **Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.** If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion, petition, or application, the reviewing Court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members), and that Court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher Court, then the Parties shall work together in good faith to address any concerns raised by the reviewing Court and propose a revised Settlement for the approval of the Court not later than fourteen (14) calendar days after the reviewing Court's decision vacating, reversing, or materially modifying the Judgment becomes

Final. A vacation, reversal, or modification of the Court's award of the Class Representative Service Payments or the Class Counsel Fees Payment or Class Counsel Litigation Expenses Payment will not constitute a vacation, reversal, or material modification of the Judgment within the meaning of this paragraph, provided that Defendant's obligation to make payments under this Settlement will remain limited by the Gross Settlement Amount.

55. **Timing of Settlement Funding and Provision of Settlement Shares and Other Payments.** Defendant shall fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. No later than seven (7) calendar days after the Effective Date, the Settlement Administrator shall send Defendant's Counsel electronic wiring instructions for paying the Gross Settlement Amount into the QSF. The Settlement Administrator will also inform Defendant of the amount to be transmitted to the QSF to pay for the employer's share of payroll taxes. Defendant shall fund the Gross Settlement Amount and the amount necessary to pay Defendant's share of payroll taxes within fifteen (15) calendar days of the Effective Date. Within fifteen (15) calendar days after Defendant funds the QSF, the Settlement Administrator will make payment of all Settlement Shares to all Participating Class Members, even if their Class Notice was undeliverable, as well as payment of Settlement Administration Expenses, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service Payments and the PAGA Payment in accordance with this Agreement.
56. **Uncashed Settlement Checks.** Before checks are mailed, the Settlement Administrator shall update address information through the National Change of Address database. A Participating Class Member or Aggrieved Employee must cash his or her Settlement Share check within 180 calendar days after it is mailed to him or her. The expiration date of the check must be conspicuously printed on the check. If a check is returned to the Settlement Administrator or not cashed within 120 calendar days after the last mailing, the Settlement Administrator will make all reasonable efforts to re-mail it to the affected individual at his or her correct address by use of available social security numbers, credit reports, LinkedIn and Facebook. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 120 calendar days after its last mailing to the affected individual, the Settlement Administrator will also send the individual a notice informing him or her that unless the check is cashed in the next 60 calendar days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If the check remains uncashed by the expiration of the 180 day period to cash the settlement check, the Settlement Administrator will void the checks, and the funds from such uncashed checks will be paid to the California State Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check, and the Participating Class Member or Aggrieved Employee will remain bound by the Settlement. The Parties agree that this disposition results in no "unpaid residue" within the meaning of California Code of Civil Procedure Section 384, as the entire Net Settlement Amount will be paid out to Participating Class Members and the entire 25% portion of the PAGA Payment will be paid out to Aggrieved Employees, whether or not they all cash their settlement checks.

57. **Final Report by Settlement Administrator to Court.** Within ten (10) calendar days after final disbursement of all funds from the Gross Settlement Amount, the Settlement Administrator will provide the Parties with a declaration proving a final report on the disbursements of all funds from the Gross Settlement Amount.
58. **Release of Claims.**
- a. **Participating Class Members.** As of the date the Defendant fully funds the Gross Settlement Amount, Defendant and the Released Parties shall receive a release from the Participating Class Members of all Released Class Claims.
 - b. **Aggrieved Employees.** Upon full funding of the Gross Settlement Amount, Defendant shall receive a release from the State of California and the Aggrieved Employees of all Released PAGA Claims. The Released PAGA Claims are deemed released against Defendant and the Released Parties. The Released PAGA Claims exclude any PAGA claims outside the PAGA Period. The release of the Released PAGA Claims shall be effective as to all Aggrieved Employees, regardless of whether an Aggrieved Employee submitted an Election Not to Participate in Settlement.
 - c. **Plaintiffs.** As of the date the Defendant fully funds the Gross Settlement Amount, the named Plaintiffs, Kalaveras and Misseredah, generally, release and discharge Defendant and the Released Parties from any and all claims, losses, debts, charges, damages, demands, obligations, causes of action, lawsuits, liabilities, breaches of duty, misfeasance, malfeasance, promises, controversies, contracts, judgments, awards, penalties, costs, and expenses of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any local, state, or federal statute, rule, regulation, ordinance or common law, including but not limited to those claims raised in the Action and/or that could have been raised in the Action, and those arising from or related to their work with Defendant ("Plaintiffs' Released Claims"). Plaintiff's Released Claims includes any Released Class Claims and Released PAGA Claims as well as other wage and hour claims, claims under California Business and Professions Code section 17200, claims under the Labor Code, including, but not limited to, claims under PAGA, claims under the Fair Labor Standards Act, and all claims for indemnity or reimbursement of business expenses, overtime compensation, minimum wages, penalties, liquidated damages, and interest, and all other claims under state, federal, and local laws, including, without limitation, Title VII of the Civil Rights Act of 1964, the Family Medical Leave Act, the Americans with Disabilities Act, the Fair Credit Reporting Act, the Employee Retirement Income Security Act of 1974, and all of their implementing regulations and interpretive guidelines, as well as the common law, including laws related to discrimination, harassment, or retaliation, arising from or relating to Plaintiffs' relationship, or termination of relationship, with any Released Party

through the Effective Date for any type of relief. Plaintiffs further covenant that they will not become a member of any other legal actions against the Released Parties, as that term is defined, asserting any of Plaintiffs' Released Claims, and will opt out of any such actions if necessary. Notwithstanding the foregoing, this waiver and release of claims does not extend to any rights which as a matter of law cannot be waived and released by private agreement, including rights to sue to enforce this Agreement and rights to vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits and claims outside the Class Period.

Plaintiffs acknowledge that they may discover facts or law different from, or in addition to the facts or law that they know or believe to be true with respect to the claims and matters released by way of this Agreement and agrees, nonetheless, that this Agreement and the releases contained in it shall be and remain effective in all respects, notwithstanding such different or additional facts or the discovery of them. The Parties declare and represent that they intend this Agreement to be complete and not subject to any claim of mistake, and that the releases herein express full and complete releases, and that they intend that the releases herein shall be final and complete.

- d. **Plaintiffs' Waiver of Rights Under California Civil Code Section 1542.** As partial consideration for the Class Representative Service Payments, the Plaintiffs' Released Claims shall include all such claims, whether known or unknown by the releasing party. Thus, even if Plaintiffs discover facts and/or claims in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Plaintiffs' Released Claims, those claims will remain released and forever barred. Therefore, with respect to Plaintiffs' Released Claims, Plaintiffs expressly waive and relinquish the provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

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.

- e. **Class Counsel.** As of the date the Defendant fully funds the Gross Settlement Amount, and except as otherwise provided by this Agreement and the Judgment, Class Counsel and any counsel associated with Class Counsel waive any claim to costs and attorneys' fees and expenses against Defendant arising from or related to the Action.

59. **No Effect on Other Benefits.** The Settlement Shares and the Individual PAGA Payments will not result in any additional benefit payments (such as 401(k) or bonus) beyond those provided by this Agreement to Plaintiffs, Participating Class Members, or Aggrieved Employees, and Plaintiffs, Participating Class Members,

and Aggrieved Employees will be deemed to have waived all such claims, whether known or unknown by them, as part of their release of claims under this Agreement.

60. **Limitation on Public Statements About Settlement.** Neither Class Counsel nor Defendant's Counsel nor Plaintiffs shall publicize the Settlement prior to the Court granting preliminary approval, other than filing documents with the Court. Plaintiffs and Class Counsel and Defendant and Defendant's Counsel agree that they will not issue any press releases or have any communication with the press or media about the Settlement. This provision shall not prohibit Class Counsel from communicating with Class Members after preliminary approval is granted for the sole purpose of administering the Settlement. This provision also does not limit Class Counsel from complying with ethical obligations or from posting court-filed documents on their website for viewing by Class Members after preliminary approval. The motions for approval, the motion for attorneys' fees and the Judgment shall be posted on a website as set forth in the Class Notice. Nothing in this provision shall prevent Defendant or Plaintiffs from making any required disclosures.

IV. MISCELLANEOUS TERMS

61. **No Admission of Liability or Class Certification for Other Purposes.**

- a. Defendant and the Released Parties deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by Defendant or the Released Parties, or an admission by Plaintiffs that any of the claims were non-meritorious or any defense asserted by Defendant was meritorious. This Settlement and the fact that Plaintiffs and Defendant were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with effectuating the Settlement pursuant to this Agreement). Nothing in this Agreement shall be constructed as an admission by Defendant of any liability or wrongdoing as to Plaintiffs, Class Members, Aggrieved Employees, or any other person, and Defendant specifically disclaims any such liability or wrongdoing. Moreover, the Settlement is not, and it should not be construed as, any admission of fact or law in this matter or any other matter that a class action is appropriate. The Parties have entered into this settlement with the intention of avoiding further disputes and litigation with the attendant inconvenience, expenses and risks. Nothing in this Agreement shall be construed as an admission by Plaintiffs that Plaintiffs' claims do not have merit or that class action is inappropriate.
- b. Whether or not the Judgment becomes Final, neither the Settlement, this Agreement, any document, statement, proceeding or conduct related to the

Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Plaintiffs or Defendant or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement.

- c. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may only be admitted in evidence and otherwise used in any and all proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any claims released or barred by this Agreement.

- 62. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.
- 63. **Attorney Authorization.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement including any amendments to this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the mediator for resolution and/or seek the assistance of the Court for resolution.
- 64. **No Prior Assignments:** The Parties represent, covenant and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.
- 65. **No Tax Advice:** Neither Class Counsel nor Defendant's Counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of

United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

66. **Modification of Agreement.** Except as set forth in section 56 hereinabove this Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
67. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties. The Parties warrant they understand and have full authority to enter this Agreement, and intend it to be fully enforceable and binding on all Parties, pursuant to California Code of Civil Procedure section 664.6, and agree it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions which might otherwise apply under federal or state law.
68. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California.
69. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
70. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations facilitated by an experienced and respected wage and hour class action mediator, taking into account all relevant factors, current and potential.
71. **Use and Return of Documents and Data.** All originals, copies, and summaries of documents and data provided to Class Counsel by Defendant in connection with the mediation or other settlement negotiations in this matter may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule. Within thirty (30) calendar days after the Defendant fully funds the Gross Settlement Amount, Class Counsel will return or destroy and confirm in writing to Defendant the destruction of all such documents and data.
72. **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
73. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiffs and the Class:

Norman B. Blumenthal
Kyle R. Nordrehaug

Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
Email: norm@bamlawca.com
kyle@bamlawca.com

Robert J. Wasserman
Jenny D. Baysinger
Mayall Hurley P.C.
2453 Grand Canal Boulevard
Stockton, CA 95207
Tel.: (209) 477-3833
Fax: (209) 473-4818
Email: rwasserman@mayallaw.com
jbaysinger@mayallaw.com

To Defendant:

Max Fischer
Jennifer B. Zargarof
Daniel R. Rodriguez
Morgan, Lewis & Bockius LLP
300 South Grand Avenue
Twenty-Second Floor
Los Angeles, CA 90071
Tel.: (213) 612-2500
Fax: (213) 612-2501
Email: max.fischer@morganlewis.com
jennifer.zargarof@morganlewis.com
daniel.rodriguez@morganlewis.com

74. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
75. **Stay of Litigation.** The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process from the date of mediation on April 19, 2022 until the earlier of the Effective Date or the date this Agreement is longer of any force or effect.

76. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the Action under CCP section 664.6 to ensure the continuing implementation of this Agreement and enforcement of the Settlement until performance in full of the terms of this Settlement.
77. **Invalidity of Any Provision.** Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

V. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 10/28/2022

DocuSigned by:

8C8CCDEB2C66410
Plaintiff Angelo Kalaveras

Dated: _____

Plaintiff Emad Missreezadah

Dated: _____

[name]
For Defendant NCR Corporation

Dated: _____

Norman Blumenthal
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

Dated: 10/28/2022

DocuSigned by:

077A13A0E77A4C5...
Robert J. Wasserman
Mayall Hurley P.C.
Attorney for Plaintiffs

Dated: _____

Jennifer B. Zargarof
Daniel R. Rodriguez
Morgan, Lewis & Bockius LLP
Attorney for Defendant

76. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the Action under CCP section 664.6 to ensure the continuing implementation of this Agreement and enforcement of the Settlement until performance in full of the terms of this Settlement.

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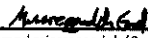
V. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: _____

Plaintiff Angelo Kalaveras

Dated: Oct 27, 2022

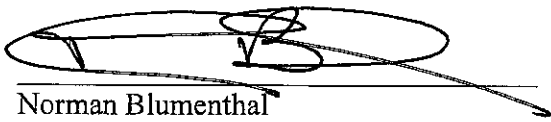

emad missreezadah (Oct 27, 2022 15:23 PDT)

Plaintiff Emad Missreezadah

Dated: _____

[name]
For Defendant NCR Corporation

Dated: 10/28/22


Norman Blumenthal
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

Dated: _____

Robert J. Wasserman
Mayall Hurley P.C.
Attorney for Plaintiffs

Dated: _____

Jennifer B. Zargarof
Daniel R. Rodriguez
Morgan, Lewis & Bockius LLP
Attorney for Defendant

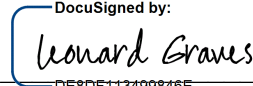
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V. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: _____
Plaintiff Angelo Kalaveras

Dated: _____
Plaintiff Emad Missreezadah

Dated: 10/28/2022

DE8DF113499846E...
Leonard Graves, Senior Vice President,
Global Services [name]
For Defendant NCR Corporation

Dated: _____
Norman Blumenthal
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

Dated: _____
Robert J. Wasserman
Mayall Hurley P.C.
Attorney for Plaintiffs

Dated: 10/28/2022

4B189515D84949F...
Jennifer B. Zargarof
Daniel R. Rodriguez
Morgan, Lewis & Bockius LLP
Attorney for Defendant

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR
FINAL COURT APPROVAL]

**NOTICE OF PROPOSED SETTLEMENT OF CLASS AND REPRESENTATIVE
ACTION AND HEARING DATE FOR FINAL COURT APPROVAL**

**(*Kalaveras and Missreezadah v. NCR Corporation*, Superior Court of the State of California,
County of Contra Costa, Case No. MSC20-01186)**

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<< >>. See the explanation in Section 5 below. If you do nothing, you will be considered a Participating Class Member and will be part of the Settlement as explained more fully below. After final approval of the Settlement by the Court, the payment from the Settlement will be mailed to you at the same address as this notice. In exchange for the Settlement Share payment, you will release the Released Class Claims as detailed in Section 4 below. If your address has changed, you must notify the Settlement Administrator as explained in Section 6 below.
Exclude Yourself The Response Deadline is	To exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion from the Settlement, you will receive no money from the Settlement and you will not be bound by the Settlement. However, if you are an Aggrieved Employee who opts out, you will still be paid your allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of whether you submit a request for exclusion from the Settlement. If you choose to exclude yourself, you must notify the Settlement Administrator as explained in Section 7 below.
Object The Response Deadline is	You may write to the Court about why you do not agree with the Settlement or appear at the Final Approval Hearing to make an oral objection. Instructions are provided in Section 8 below.

1. Why did I get this Notice?

A proposed class action settlement of the above-captioned action (the “Settlement”) pending in the Superior Court of the State of California, in and for the County of Contra Costa (the “Court”) has been reached between Plaintiffs Angelo Kalaveras and Emad Missreezadah (“Plaintiffs”) and Defendant NCR Corporation (“Defendant”) and has been granted preliminary approval by the Court. You may be entitled to receive money from this Settlement.

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

All individuals who were employed by Defendant in California as hourly, non-exempt employees during the Class Period.

The “Class Period” is June 25, 2019 through July 19, 2022.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Class Notice carefully as your rights may be affected by the Settlement. To exclude yourself from, or object to, the Settlement you must take action by certain deadlines. If you want to be part of the Settlement as proposed, you don’t need to do anything to obtain your share of the Settlement. Defendant will not retaliate against you for any actions you take with respect to the Settlement.

2. What is this class and representative action lawsuit about?

On June 25, 2020, Plaintiff Kalaveras filed a Complaint against Defendant in the Superior Court of the State of California, County of Contra Costa, Case No. MSC20-01186 (“Kalaveras Class Action”), alleging the following claims against Defendant: failure to properly calculate and pay overtime wages, failure to provide required meal periods and pay meal period premiums, failure to provide required rest periods and pay rest period premiums, failure to provide accurate itemized wage statements, failure to timely pay wages at termination, and unfair competition. On August 31, 2020, Plaintiff Kalaveras filed a First Amended Complaint in the Kalaveras Class Action, adding a cause of action alleging Defendant’s violation of the Private Attorneys General Act (“PAGA”).

On January 19, 2021, Plaintiff Emad Missreezadah filed a Complaint against Defendant in the Superior Court of the State of California, County of Los Angeles (“Missreezadah Class Action”), alleging the following claims against Defendant: unfair competition, failure to pay minimum wages, failure to pay overtime wages, failure to provide required meal periods and pay meal period premiums, failure to provide required rest periods and pay rest period premiums, failure to provide accurate itemized wage statements, and failure to timely pay wages at termination. On May 11, 2021, Plaintiff Emad Missreezadah filed a Complaint against Defendant in the Superior Court of the State of California, County of Los Angeles (“Missreezadah PAGA Action”) alleging Defendant’s violation of the Private Attorneys General Act (“PAGA”). On June 1, 2021, the Missreezadah Class Action was dismissed without prejudice. On November 17, 2021, the Los Angeles Superior Court granted Plaintiff Missreezadah’s request for dismissal without prejudice of the Missreezadah PAGA Action.

On October 25, 2021, Plaintiffs filed a Third Amended Complaint in the Kalaveras Class Action, adding Plaintiff Missreezadah as a named plaintiff, and pursuing a single cause of action brought pursuant to PAGA. This consolidated lawsuit is referred to as the “Action”.

As part of this Settlement, on August 18, 2022, Plaintiffs filed a Fourth Amended Complaint in the Action, to re-allege claims for 1) failure to properly calculate and pay overtime, 2) failure to provide required meal periods and pay meal period premiums, 3) failure to provide required rest periods and pay rest period premiums, 4) failure to provide accurate itemized wage statements, 5) failure to timely pay wages at termination, and 6) unfair competition on behalf of the Class,

along with a violation of the PAGA. The Fourth Amended Complaint is the operative complaint in this Action.

Defendant denies and disputes all claims. Specifically, Defendant contends that Plaintiffs and the Class Members and Aggrieved Employees were properly compensated for wages under California law; that Plaintiffs and the Class Members and Aggrieved Employees were provided with meal and rest periods in compliance with California law; that Defendant complied with California wage statement and payroll requirements; that Defendant is not liable for any of the damages or penalties claimed or that could be claimed in the Action; and that this Action cannot be maintained as a class action or representative action.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiffs to serve as the Class Representatives, and the law firms of Mayall Hurley P.C. and Blumenthal Nordrehaug Bhowmik De Blouw LLP to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an “all in” amount of One Million Dollars (\$1,000,000) (the “Gross Settlement Amount”) to fund the settlement of this Action. The Gross Settlement Amount includes all payments of Settlement Shares to Participating Class Members, the Settlement Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the PAGA Payment for civil penalties. Any employer-side payroll taxes on the portion of the Settlement Shares allocated to wages shall be separately paid by Defendant.

Within fifteen (15) calendar days of the Effective Date, Defendant will fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. The “Effective Date” is the date by which both the Settlement is approved by the Court and the Judgment is final and no longer subject to appeal. Fifteen (15) calendar days after the settlement is funded, the Settlement Administrator will mail checks for the Settlement Shares to Participating Class Members.

Amounts to be Paid From the Gross Settlement Amount. The proposed payments subject to Court approval will be deducted from the Gross Settlement Amount before Settlement Shares are made to Class Members who do not request exclusion (“Participating Class Members”):

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$12,000, for expenses, including without limitation expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing Settlement Shares and tax forms, and handling inquiries and uncashed checks.
- Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. Payment to Class Counsel of reasonable attorneys’ fees not to exceed one-third of the Gross Settlement Amount, which is presently \$333,333.33, and an additional amount to reimburse actual litigation costs incurred by the Plaintiffs not to exceed \$21,000. Class Counsel has been prosecuting the Action on behalf of Plaintiffs and the Class on a contingency fee basis (that is, without being paid any money) and has been paying all litigation costs and expenses. The amounts stated are what Class Counsel will be

requesting and the final amounts to be paid will be decided at the Final Approval Hearing.

- Class Representative Service Payments. Class Representative Service Payments in an amount not to exceed \$10,000 to each of the two Plaintiffs, or such lesser amount as may be approved by the Court, to compensate them for services on behalf of the Class in initiating and prosecuting the Action, and for the risks they undertook. The amount stated is what Plaintiffs will be requesting and the final amount to be paid will be decided at the Final Approval Hearing.
- PAGA Payment. A payment of \$50,000 relating to the claim for penalties under the Private Attorney Generals Act (“PAGA”), \$37,500 of which will be paid to the State of California’s Labor and Workforce Development Agency (“LWDA Payment”). The remaining \$12,500 will be distributed to the Aggrieved Employees as Individual PAGA Payments based on their respective pay periods employed during the PAGA Period (June 25, 2019 through July 19, 2022). “Aggrieved Employees” mean all individuals who were employed by Defendant in California as hourly, non-exempt employees during the PAGA Period, regardless of whether they submit an Election Not to Participate in Settlement. All Aggrieved Employees will be sent their share of the PAGA Payment and will be subject to the release of the Released PAGA Claims as set forth below, whether or not they opt out of the Settlement.

Calculation of Payments to Class Members. After all of the payments of the Court-approved Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payments, the PAGA Payment, and the Settlement Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, called the “Net Settlement Amount”, shall be distributed as Settlement Shares to the Participating Class Members. The Net Settlement Amount is estimated to be at least \$ [REDACTED], based upon the above proposed deductions. Settlement Administrator will pay a Settlement Share from the Net Settlement Amount to each Participating Class Member, which shall be calculated as follows: (a) the Settlement Administrator shall divide the Net Settlement Amount by the total number of weeks employed during the Class Period by Participating Class Members to determine a dollar amount per week (“Weekly Rate”); and (b) the Settlement Administrator shall then take the number of weeks employed by each Participating Class Member during the Class Period and multiply it by the Weekly Rate to calculate their Settlement Share.

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

Tax Matters. Twenty-five percent (25%) of each Participating Class Member’s Settlement Share is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. Seventy-five percent (75%) of each Participating Class Member’s Settlement Share is in settlement of claims for interest, non-wage damages and penalties allegedly due to employees (the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings, and shall be reported on IRS Form 1099. The employee portion of all applicable income and payroll taxes will be the responsibility

of the Participating Class Members. Neither Class Counsel nor Defendant's Counsel intend anything contained in this Class Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court granting final approval of the Settlement and entering the Judgment.

4. What Do I Release Under the Settlement?

Released Class Claims. Upon the Effective Date and full funding of the Gross Settlement Amount, Defendant and the Released Parties shall receive a release from the Participating Class Members of all class claims and/or causes of action by Class Members against the Released Parties that were pled or which could have been pled based on the factual allegations contained in the operative complaints and PAGA letters previously submitted by Plaintiffs to the LWDA, which occurred during the Class Period, including claims under Labor Code sections 201-204, 210, 226, 226.3, 226.7, 233, 245, 246, 248.5, 256, 510, 512, 558, 1194, 1197, 1197.1, 1198, and 2802, and including claims under Business and Professions Code section 17200, et seq., and expressly excluding all other claims, including claims for vested health insurance benefits, wrongful termination, unemployment insurance, disability insurance, social security, workers' compensation, and claims outside the Class Period ("Released Class Claims").

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

Released PAGA Claims. Upon the Effective Date and full funding of the Gross Settlement Amount, Defendant shall receive a release from the State of California and the Aggrieved Employees of all claims and/or causes of action by Aggrieved Employees against the Released Parties that were seeking to assess and collect civil penalties that were pled or which could have been pled based on the factual allegations contained in the operative complaints and PAGA letters submitted by Plaintiffs to the LWDA, which occurred during the PAGA Period as to the Aggrieved Employees, including claims under Labor Code sections 201-204, 210, 226, 226.3, 226.7, 233, 245, 246, 248.5, 256, 351, 510, 512, 558, 1194, 1197, 1197.1, 1198, and 2802 ("Released PAGA Claims"). The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims seeking relief other than civil penalties, claims for vested health insurance benefits, wrongful termination, unemployment insurance, disability insurance, social security, worker's compensation, and claims outside of the PAGA Period. The release of the Released PAGA Claims shall be effective as to all Aggrieved Employees, regardless of whether an Aggrieved Employee submitted a request for an exclusion from the Class.

5. How much will my payment be?

The Weekly Rate is estimated to be <<\$[REDACTED]>>. Defendant's records reflect that you were employed <<[REDACTED]>> workweeks for Defendant as a Class Member during the Class Period (June 25, 2019 through July 19, 2022).

Based on this information, your estimated Settlement Share from the Net Settlement Amount is << [REDACTED] >>.

If you wish to challenge the information set forth above, then you must submit a written and signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Class Notice no later than _____ [forty-five (45) calendar days after the mailing of the Class Notice or 60 calendar days after the Class Notice in the case of re-mailing] (“Response Deadline”).

6. How can I get a payment?

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

The Court will hold a Final Approval Hearing on [REDACTED], at [REDACTED] to decide whether to approve the Settlement and fix the amounts to be paid as attorneys’ fees and costs to Class Counsel and as service awards to the Plaintiffs. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately three months after this hearing. If there are objections or appeals, resolving them can take time, usually more than a year. Please be patient.

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

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or “opt out.” **If you opt out, you will not receive a Settlement Share from the Settlement, and you will not be bound by the Settlement which means you will retain the right to sue Defendant for the Released Class Claims.** However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of whether they submit a request for exclusion.

To opt out, you must mail to the Settlement Administrator, by First Class Mail, a written, signed and dated request to opt-out postmarked no later than the Response Deadline, which is [REDACTED] [forty-five (45) calendar days after the mailing of the Class Notice or 60 calendar days after the Class Notice in the case of re-mailing]. The request to opt-out must be postmarked or received by the Settlement Administrator by this deadline and must: (1) contain a clear statement that you are requesting to opt out of, or be excluded from the Settlement and Released Class Claims in the *Kalaveras v. NCR Corporation* lawsuit; (2) contain the name and address of the person requesting exclusion; and (3) be signed by the Class Member. Please include the name and number of the case, which is *Kalaveras v. NCR Corporation*, Case No. MSC20-01186. The request to opt-out must be signed by you. No other person may opt-out for a living member of the Class.

The address for the Settlement Administrator is [REDACTED]. Written requests for exclusion that are postmarked after [REDACTED], or are incomplete or unsigned may be rejected; and if so, those Class Members will remain bound by the Settlement and the Released Class Claims described above.

8. How do I tell the Court that I don't agree with the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason may object to the proposed Settlement, the attorneys' fees, the costs and/or the service awards, either in writing or in person. Objections that are in writing must state the Class Member's name and current address, and state the grounds for why you believe the Settlement is unfair. Objections that are in writing must also be signed by the Participating Class Member and must state whether the Participating Class members intends to appear at the Final Approval Hearing. All written objections or other correspondence should also state the name and number of the case, which is *Kalaveras v. NCR Corporation*, in the Superior Court of the State of California, County of Contra Costa, Case No. MSC20-01186.

All written objections must be mailed to the Settlement Administrator at [REDACTED], no later than [REDACTED] [forty-five (45) calendar days after the mailing of the Class Notice or 60 calendar days after the Class Notice in the case of re-mailing].

Alternatively, Class Members may appear at the Final Approval Hearing on _____ at _____ to make an oral objection. The Final Approval Hearing can be attended remotely through CourtCall. Please check the Court's website for current information concerning appearances and how to view court proceedings: <https://www.cc-courts.org/civil/civil.aspx>. For assistance in making an appearance at the Final Approval Hearing, please contact Class Counsel below.

To object to the Settlement, you must not opt out, and if the Court approves the Settlement despite your objection, you will be bound by the terms of the Settlement in the same way as Class Members who do not object and you will still be mailed a check for your Settlement Share.

9. What if the number of workweeks shown in this Notice is wrong?

If you believe the number of workweeks shown in Section 5 is wrong, mail a letter to the Settlement Administrator at [REDACTED], no later than [REDACTED] [forty-five (45) calendar days after the mailing of the Class Notice or 60 calendar days after the Class Notice in the case of re-mailing]. If there is a dispute, the Settlement Administrator shall consult with the Plaintiffs and Defendant to determine whether an adjustment is warranted. Defendant's records will be given a rebuttable presumption of accuracy.

The addresses for Parties' counsel are as follows:

Class Counsel:

Robert J. Wasserman
Jenny D. Baysinger
Mayall Hurley P.C.
2453 Grand Canal Boulevard
Stockton, CA 95207
Tel.: (209) 477-3833
Fax: (209) 473-4818
Email: rwasserman@mayallaw.com
jbaysinger@mayallaw.com

Norman Blumenthal
Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw
LLP
2255 Calle Clara
La Jolla, CA 92037
Tel: 858-551-1223 / Fax: 858-551-1232
Email: kyle@bamlawca.com
Website: www.bamlawca.com

Counsel for Defendant:

Max Fischer
Jennifer B. Zargarof
Daniel R. Rodriguez
Morgan, Lewis & Bockius LLP
300 South Grand Avenue, 22nd Floor
Los Angeles, CA 90071

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

The Court will hold a Final Approval Hearing at [REDACTED] on [REDACTED], at the Contra Costa County Superior Court, located at 725 Court Street, Martinez, California 94553, in Department 12 before Judge Charles Treat. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payments to Plaintiffs. If there are objections, the Court will consider them. This hearing may be rescheduled by the Court without further notice to you. If you are interested in participating in the Final Approval Hearing, you should confirm the date, time and location by contacting Class Counsel. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing. If the hearing is continued, the new hearing date can be found on the Court Public Portal webpage for the Contra Costa County Superior Court (<https://odyportal.cc-courts.org/portal>) by entering the Case No. MSC20-01186.

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

You may call the Settlement Administrator at [REDACTED] or write to *Kalaveras v. NCR Corporation* Settlement Administrator, c/o [REDACTED]; or contact Class Counsel at 1-858-551-1223.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may obtain a copy of the Settlement Agreement, the Judgment, the motion for attorneys' fees, costs and service award, the motion for final approval, or other Settlement documents which will be posted on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Missreezadah v. NCR Corporation*. You may also get more details by examining the Court's file on the Internet via the Court Public Portal webpage for the Contra Costa County Superior Court (<https://odyportal.cc-courts.org/portal>) and entering the Case No.

MSC20-01186. If you wish to view the Court files in person, you go to the Clerk's Office at 1111 Ward Street, Martinez, CA 94553.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void if not cashed within one hundred eighty (180) calendar days after its mailing. In such event, the Settlement Administrator shall pay all unclaimed funds to the California State Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check where the funds may be claimed.
- If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL OF THE SETTLEMENT]

EXHIBIT "B"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

ANGELO KALAVERAS and EMAD
MISSREEZADAH,

Plaintiffs,

v.

NCR CORPORATION; and DOES 1-100,
inclusive,

Defendants.

CASE NO.: **MSC20-01186**

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date:
Hearing Time:

Judge: Hon.
Dept.:

Action Filed: June 25, 2020
Trial Date: None Set

PRELIMINARY APPROVAL ORDER

1 This matter, having come before the Honorable Edward G. Weil of the Superior Court of
2 the State of California, in and for the County Contra Costa, on _____[DATE], for the
3 motion by Plaintiffs Angelo Kalaveras and Emad Missreezadah (“Plaintiffs”) for preliminary
4 approval of the class settlement with Defendant NCR Corporation (“Defendant”). The Court,
5 having considered the briefs, argument of counsel and all matters presented to the Court and good
6 cause appearing, hereby GRANTS Plaintiffs’ Motion for Preliminary Approval of Class Action
7 Settlement.

8
9 **IT IS HEREBY ORDERED:**

10 1. The Court preliminarily approves the Class and Representative Action Settlement
11 Agreement (“Agreement”) attached as Exhibit ____ to the Declaration of Kyle Nordrehaug in
12 Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement. This is based
13 on the Court’s determination that the Settlement set forth in the Agreement is within the range of
14 reasonableness which could ultimately be given final approval, pursuant to the provisions of
15 Section 382 of the California Code of Civil Procedure and California Rules of Court, rule 3.769.

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

18 3. The Gross Settlement Amount is One Million Dollars (\$1,000,000.00). It appears
19 to the Court on a preliminary basis that the settlement amount and terms are fair, adequate and
20 reasonable as to all potential Class Members and Aggrieved Employees when balanced against the
21 probable outcome of further litigation and the significant risks relating to certification, liability and
22 damages issues. The Court finds that the \$50,000 PAGA Payment amount allocated as payment to
23 the California Labor and Workforce Development Agency and Aggrieved Employees, as their
24 share of the Settlement of civil penalties under the Private Attorneys Generals Act is fair,
25 reasonable, and appropriate. It further appears that investigation and research have been
26 conducted such that counsel for the Parties are able to reasonably evaluate their respective
27 positions. It further appears to the Court that settlement at this time will avoid substantial

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PRELIMINARY APPROVAL ORDER

1 additional costs by all Parties, as well as avoid the delay and risks that would be presented by the
2 further prosecution of the Action. It further appears that the Settlement has been reached as the
3 result of serious and non-collusive, arms-length negotiations. The Court therefore preliminarily
4 finds that the Settlement is fair, adequate, and reasonable when balanced against the probable
5 outcome of further litigation and the significant risks relating to certification, liability, and
6 damages issues.

7 4. The Agreement specifies for an attorneys' fees award not to exceed one-third (1/3)
8 of the Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$21,000,
9 and proposed Class Representative Service Payments to the Plaintiffs in an amount not to exceed
10 \$10,000 each. The Court will not approve the amount of attorneys' fees and costs, nor the amount
11 of any service award, until the Final Approval Hearing. Plaintiffs will be required to present
12 evidence supporting these requests, including lodestar, at the time of final approval.

13 5. The Court recognizes that Plaintiffs and Defendant stipulate and agree to
14 certification of a class for settlement purposes only. This stipulation will not be deemed
15 admissible in this or any other proceeding should this Settlement not become final. For settlement
16 purposes only, the Court conditionally certifies the following Class: "all individuals who were
17 employed by Defendant in California as hourly, non-exempt employees during the Class Period."
18 The Class Period is June 25, 2019 through July 19, 2022.

19 6. The Court concludes that, for settlement purposes only, the Class meets the
20 requirements for certification under section 382 of the California Code of Civil Procedure in that:
21 (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) the claims of the Plaintiffs are typical of the claims of the members of the Class; (d)
25 the Plaintiffs can fairly and adequately protect the interests of the members of the Class; (e) a class
26 action is superior to other available methods for the efficient resolution of this controversy; and (f)

1 counsel for the Class is qualified to act as counsel for the Class and the Plaintiffs are adequate
2 representatives of the Class.

3 7. The Court provisionally appoints Plaintiffs as the representatives of the Class. The
4 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik
5 of Blumenthal Nordrehaug Bhowmik De Blouw LLP and Robert J. Wasserman and Jenny D.
6 Baysinger of Mayall Hurley P.C.as Class Counsel for the Class.

7 8. The Court hereby approves, as to form and content, the Notice of Proposed
8 Settlement of Class Action and Hearing Date for Final Court Approval (“Class Notice”) attached
9 to the Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and
10 accurately inform the Class of all material elements of the proposed Settlement, of the Class
11 Members’ right to be excluded from the Class by submitting a written opt-out request, and of each
12 member’s right and opportunity to object to the Settlement. The Court further finds that the
13 distribution of the Class Notice substantially in the manner and form set forth in the Agreement
14 and this Order meets the requirements of due process, is the best notice practicable under the
15 circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The
16 Court orders the mailing of the Class Notice by first class mail, pursuant to the terms set forth in
17 the Agreement.

18 9. The Court hereby appoints Simpluris, Inc. as Settlement Administrator. No later
19 than thirty (30) days after preliminary approval of the Settlement by the Court, Defendant shall
20 provide the Settlement Administrator with the Class Data. The Settlement Administrator will
21 perform address updates and verifications as necessary prior to the mailing of the Class Notice.
22 Using best efforts to mail it as soon as possible, and in no event later than fourteen (14) calendar
23 days after receiving the Class Data, the Settlement Administrator will mail the Class Notice to all
24 Class Members via first-class U.S. Mail.

25 10. The Court hereby preliminarily approves the proposed procedure for exclusion
26 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
27 from the Class as provided in the Class Notice by following the instructions for requesting
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PRELIMINARY APPROVAL ORDER

1 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be
2 postmarked by no later than forty-five (45) calendar days after the date of the mailing of the Class
3 Notice and received by the Settlement Administrator. If the Class Notice Packet is re-mailed, the
4 response date for requests for exclusion will be extended an additional 15 calendar days. Any such
5 person who chooses to opt out of and be excluded from the Class will not be entitled to any
6 recovery under the Settlement and will not be bound by the Settlement or have any right to object,
7 appeal or comment thereon. Class Members who have not requested exclusion shall be bound by
8 all determinations of the Court, the Agreement and the Judgment. A request for exclusion may
9 only opt out that particular individual, and any attempt to effect an opt out of a group, class, or
10 subclass of individuals is not permitted and will be deemed invalid. Subject to the Court's final
11 approval of the Settlement, those Aggrieved Employees that worked during the PAGA Period
12 (June 25, 2019 through July 19, 2022) will still be paid their allocation of the PAGA Payment and
13 will remain subject to the release of the Released PAGA Claims in the Agreement regardless of
14 any request for exclusion from the Class.

15 11. Any Class Member who has not opted out may appear at the final approval hearing
16 and may object or express the Member's views regarding the Settlement, and may present
17 evidence and file briefs or other papers that may be proper and relevant to the issues to be heard
18 and determined by the Court as provided in the Notice. Class Members will have forty-five (45)
19 calendar days from the date of the mailing of the Class Notices to submit their written objections
20 to the Settlement Administrator in accordance with the instructions in the Class Notice. If the
21 Class Notice Packet is re-mailed, the response date for written objections will be extended an
22 additional 15 calendar days. Alternatively, Class Members may appear at the Final Approval
23 Hearing to make oral objections.

24 12. A Final Approval Hearing shall be held before this Court on _____
25 _____ at _____ in Department 39 at the Contra Costa County Superior Court to
26 determine all necessary matters concerning the Settlement, including: whether the proposed
27 settlement of the Action on the terms and conditions provided for in the Agreement is fair,
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PRELIMINARY APPROVAL ORDER

adequate and reasonable and should be finally approved by the Court; whether the Final Approval Order and Judgment should be entered herein; whether the plan of allocation contained in the Agreement should be approved as fair, adequate and reasonable to the Class Members; and to finally approve attorneys' fees and costs, the service awards, and the expenses of the Settlement Administrator. All papers in support of the motion for final approval and the motion for attorneys' fees, costs and service awards shall be filed with the Court and served on all counsel no later than sixteen (16) court days before the hearing and both motions shall to be heard at the Final Approval Hearing.

13. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder shall be construed as a concession or admission by Defendant in any way that the claims asserted have any merit or that this Action was properly brought as a class or representative action, and shall not be used as evidence of, or used against Defendant as, an admission or indication in any way, including with respect to any claim of any liability, wrongdoing, fault or omission by Defendant or with respect to the truth of any allegation asserted by any person. Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit, document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be construed as, offered or admitted in evidence as, received as or deemed to be evidence for any purpose adverse to the Defendant, including, but not limited to, evidence of a presumption, concession, indication or admission by Defendant of any liability, fault, wrongdoing, omission, concession or damage.

14. In the event the Settlement does not become effective in accordance with the terms of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to become effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties shall revert to their respective positions as of before entering into the Agreement, and expressly reserve their respective rights regarding the prosecution and defense of this Action, including all available defenses and affirmative defenses, and arguments that any claim in the Action could not be certified as a class action and/or managed as a representative action. In such

PRELIMINARY APPROVAL ORDER

1 an event, the Court's orders regarding the Settlement, including this Order, shall not be used or
2 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of
3 the Agreement with respect to the effect of the Agreement if it is not approved.

4 15. The Court reserves the right to adjourn or continue the date of the final approval
5 hearing and all dates provided for in the Agreement without further notice to Class Members, and
6 retains jurisdiction to consider all further applications arising out of or connected with the
7 proposed Settlement.

8 16. The Action is stayed and all trial and related pre-trial dates are vacated, subject to
9 further orders of the Court at the Final Approval Hearing.

10 **IT IS SO ORDERED.**

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12 Dated: _____

HON. EDWARD G. WEIL
JUDGE, SUPERIOR COURT OF CALIFORNIA

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PRELIMINARY APPROVAL ORDER

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA

ANGELO KALAVERAS and EMAD
MISSREEZADAH,

Plaintiffs,

v.

NCR CORPORATION; and DOES 1-100,
inclusive,

Defendants.

CASE NO.: **MSC20-01186**

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date:
Hearing Time:

Judge: Hon.
Dept.:

Action Filed: June 25, 2020
Trial Date: None Set

FINAL APPROVAL ORDER AND JUDGMENT

1 The motion of Plaintiffs Angelo Kalaveras and Emad Missreezadah (“Plaintiffs”) for an
2 order finally approving the Class and Representative Action Settlement Agreement (“Agreement”)
3 with Defendant NCR Corporation (“Defendant”), and the motion for attorneys’ fees and costs,
4 service payments, and the fees and expenses of the Settlement Administrator, duly came on for
5 hearing on _____ before the Honorable Edward G. Weil.

6 **I.**

7 **FINDINGS**

8 Based on the oral and written argument and evidence presented in connection with the
9 motion, the Court makes the following findings:

10 1. All terms used herein shall have the same meaning as defined in the Agreement.

11 2. This Court has jurisdiction over the subject matter of this litigation pending before
12 the California Superior Court for the County of Contra Costa, and over all Parties to this litigation,
13 including the Class.

14 3. Based on a review of the papers submitted by Plaintiffs and a review of the
15 applicable law, the Court finds that the Gross Settlement Amount of One Million Dollars
16 (\$1,000,000.00) and the terms set forth in the Agreement are fair, reasonable, and adequate.

17 4. The Court further finds that the Settlement was the result of arm’s length
18 negotiations conducted after Class Counsel had adequately investigated the claims and became
19 familiar with the strengths and weaknesses of those claims. In particular, the amount of the
20 Settlement, the significant risks relating to certification, liability, and damages issues, and the
21 assistance of an experienced mediator in the settlement process, among other factors, support the
22 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

23 **Preliminary Approval of the Settlement**

24 5. On _____, the Court granted preliminary approval of the Settlement. At
25 this same time, the Court approved conditional certification of the Class for settlement purposes
26 only.

27 **Notice to the Class**

28 **FINAL APPROVAL ORDER AND JUDGMENT**

6. In compliance with the Preliminary Approval Order, the Class Notice was mailed by first class mail to members of the Class at their last known addresses on or about _____. Mailing of the Class Notice to their last known addresses was the best notice option under the circumstances and was reasonably calculated to communicate actual notice of the litigation and the proposed settlement to the Class. The Class Notice given to the Class Members fully and accurately informed the Class Members of all material elements of the proposed Settlement and of their opportunity to object to or comment thereon or to seek exclusion from the Settlement; was valid, due, and sufficient notice to all Class Members; and complied fully with the laws of the State of California, the United States Constitution, due process and other applicable law. The Class Notice fairly and adequately described the Settlement and provided Class Members adequate instructions and a variety of means to obtain additional information.

7. The deadline for opting out of the Class or submitting written objections to the Settlement was _____, or _____ if the Class Notice was remailed. There was an adequate interval between notice and the deadline to permit Class Members to choose what to do and act on their decision. A full opportunity has been afforded to the Class Members to participate in this hearing, and all Class Members and other persons wishing to be heard have been heard. Class Members also have had a full and fair opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the Court determines that all Class Members who did not timely and properly submit a request for exclusion are bound by the Settlement and this Final Approval Order and Judgment.

Fairness Of Settlement

8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
48 Cal. App. 4th 1794, 1801 (1996).

a. The settlement was reached through arm's-length bargaining between the parties during an all-day mediation before Mark Rudy, a respected and experienced mediator of wage and hour class actions. There has been no collusion between the parties in reaching the proposed settlement.

b. Plaintiffs' investigation and discovery have been sufficient to allow the Court and counsel to act intelligently.

c. Counsel for both parties are experienced in similar employment class action litigation. All counsel recommended approval of the Agreement.

d. The percentage of objectors and requests for exclusion is small. _____
 objections were received. _____ requests for exclusion were received.

e. The participation rate was high. _____ Class Members will be mailed a settlement payment, representing _____ % of the overall Class.

9. The consideration to be given to the Class Members under the terms of the Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims asserted in this action and is fair, reasonable and adequate compensation for the release of Class Members' claims, given the uncertainties and significant risks of the litigation and the delays which would ensue from continued prosecution of the action.

10. The Agreement is approved as fair, adequate and reasonable and in the best interests of the Class Members.

Attorneys' Fees and Costs

11. An award of \$_____ for attorneys' fees, representing one-third (1/3) of the Gross Settlement Amount, and \$_____ for litigation costs and expenses, is reasonable, in light of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results achieved by Class Counsel. The requested awards have been supported by Class Counsel's lodestar and billing statement.

Class Representative Service Payments

12. The Agreement provides for a Class Representative Service Payments of not more than \$10,000 to each of the Plaintiffs, subject to the Court's approval. The Court finds that a Class Representative Service Payments in the amount of \$_____ to each Plaintiff is reasonable in light of the risks and burdens undertaken by the Plaintiffs in the litigation, for their time and effort in

FINAL APPROVAL ORDER AND JUDGMENT

1 bringing and prosecuting this matter on behalf of the Class, and for their execution of a general
2 release.

3 **Settlement Administration Expenses**

4 13. The Settlement Administrator shall calculate and administer the payment to be
5 made to the Class Members, transmit payment for attorneys' fees and costs to Class Counsel,
6 transmit the Class Representative Service Payments to the Plaintiffs, distribute the PAGA
7 Payment, issue any required tax reporting forms, calculate withholdings and perform the other
8 remaining duties set forth in the Agreement. The Settlement Administrator has documented
9 \$_____ in fees and expenses, and this amount is reasonable in light of the work performed by
10 the Settlement Administrator.

11 **PAGA Payment**

12 14. The Agreement provides for a PAGA Payment out of the Gross Settlement
13 Amount of \$50,000, which shall be allocated \$37,500 to the LWDA as the LWDA's 75% share of
14 the settlement of civil penalties paid pursuant to the PAGA and \$12,500 to be distributed to the
15 Aggrieved Employees as Individual PAGA Payments based on their respective pay periods
16 employed during the PAGA Period (June 25, 2019 through July 19, 2022). The Aggrieved
17 Employees are all individuals who were employed by Defendant in California as hourly, non-
18 exempt employees during the PAGA Period, regardless of whether they submit an Election Not to
19 Participate in Settlement. The Court finds this PAGA Payment to be reasonable. All Aggrieved
20 Employees will be sent their share of the PAGA Payment and will be subject to the release of the
21 Released PAGA Claims as set forth below, whether or not they opt out of the Settlement.

22 **II.**

23 **ORDERS**

24 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

25 1. The certification of the Class for the purposes of settlement is confirmed. The
26 Class is defined as follows:

27 All individuals who were employed by Defendant in California as hourly, non-
28 exempt employees during the Class Period (June 25, 2019 through July 19, 2022).

FINAL APPROVAL ORDER AND JUDGMENT

2. All persons who meet the foregoing definition are members of the Class, except for those individuals who filed a valid request for exclusion (“opt out”) from the Class. [INSERT REFERENCE TO IDENTIFY ANY OPT OUTS].

3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the best interest of the Class.

4. Class Counsel are awarded attorneys' fees in the amount of \$_____ and costs in the amount of \$_____. Class Counsel shall not seek or obtain any other compensation or reimbursement from Defendants, Plaintiffs or members of the Class.

5. The payment of the Class Representative Service Payments in the amount of \$_____ to each of the Plaintiffs is approved.

6. The payment of \$_____ to the Settlement Administrator for their fees and expenses is approved.

7. The PAGA Payment of \$50,000 is approved and shall be allocated in accordance with the Agreement.

8. The Agreement and this Settlement are not an admission by Defendant, nor is this Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any wrongdoing by Defendant or that this Action is appropriate for class treatment (other than for settlement purposes). Neither this Final Approval Order and Judgment, the Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement is, may be construed as, or may be used as an admission by or against Defendant of any fault, wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or concession with regard to the denials or defenses by Defendant. Notwithstanding these restrictions, Defendant may file in the Action or in any other proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and records on file in the Action as evidence of the Settlement to support a defense of res judicata, collateral estoppel, release, or other

FINAL APPROVAL ORDER AND JUDGMENT

1 theory of claim or issue preclusion or similar defense as to the Released Class Claims and/or the
2 Released PAGA Claims.

3 9. Notice of entry of this Final Approval Order and Judgment shall be given to all
4 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order
5 and Judgment shall be posted on a website as set forth in the Class Notice to the Class. It shall not
6 be necessary to send notice of entry of this Final Approval Order and Judgment to individual Class
7 Members.

8 10. If the Agreement does not become final and effective in accordance with the terms
9 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
10 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
11 revert to their respective positions as of before entering into the Agreement, and expressly reserve
12 their respective rights regarding the prosecution and defense of this Action, including all available
13 defenses and affirmative defenses, and arguments that any claim in the Action could not be
14 certified as a class action and/or managed as a representative action.

15 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

16 1. Except as set forth in the Agreement and this Final Approval Order and Judgment,
17 Plaintiffs, and all members of the Class, shall take nothing in the Action.

18 2. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
19 jurisdiction to construe, interpret, implement and enforce the Agreement, to hear and resolve any
20 contested challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute
21 arising from or in connection with the distribution of settlement benefits.

22 3. The Parties are authorized to agree to and to adopt such amendments, modifications
23 and expansions of the Agreement and all exhibits attached thereto which are consistent with this
24 Final Approval Order and Judgment and as approved by the Court.

25 4. Each party shall bear its own attorneys' fees and costs, except as otherwise
26 provided in the Agreement and in this Final Approval Order and Judgment.

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FINAL APPROVAL ORDER AND JUDGMENT

1 5. As of the date the Defendant fully funds the Gross Settlement Amount, Defendant
2 and the Released Parties shall receive a release from the Participating Class Members of all
3 Released Class Claims. The “Released Class Claims” are all class claims and/or causes of action
4 by Class Members against the Released Parties that were pled or which could have been pled
5 based on the factual allegations contained in the operative complaints and PAGA letters
6 previously submitted by Plaintiffs to the LWDA, which occurred during the Class Period,
7 including claims under Labor Code sections 201-204, 210, 226, 226.3, 226.7, 233, 245, 246,
8 248.5, 256, 510, 512, 558, 1194, 1197, 1197.1, 1198, and 2802, and including claims under
9 Business and Professions Code section 17200, et seq., and expressly excluding all other claims,
10 including claims for vested health insurance benefits, wrongful termination, unemployment
11 insurance, disability insurance, social security, workers’ compensation, and claims outside the
12 Class Period.

13 6. Upon full funding of the Gross Settlement Amount, Defendant shall receive a
14 release from the State of California and the Aggrieved Employees of all Released PAGA Claims.
15 The “Released PAGA Claims” are all claims and/or causes of action by Aggrieved Employees
16 against the Released Parties that were seeking to assess and collect civil penalties that were pled or
17 which could have been pled based on the factual allegations contained in the operative complaints
18 and PAGA letters submitted by Plaintiffs to the LWDA, which occurred during the PAGA Period
19 as to the Aggrieved Employees, including claims under Labor Code sections 201-204, 210, 226,
20 226.3, 226.7, 233, 245, 246, 248.5, 256, 351, 510, 512, 558, 1194, 1197, 1197.1, 1198, and 2802.
21 The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims
22 seeking relief other than civil penalties, claims for vested health insurance benefits, wrongful
23 termination, unemployment insurance, disability insurance, social security, worker’s
24 compensation, and claims outside of the PAGA Period. Regardless of whether any Class Member
25 submits an Election Not to Participate in Settlement, they will still be bound the Released PAGA
26 Claims.

1 7. Upon the Effective Date and full funding of the Gross Settlement Amount,
2 Plaintiffs generally release and discharge the Released Parties from all of the Plaintiffs' Released
3 Claims as set forth fully in the Agreement.

4 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

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6 Dated: _____

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HON. EDWARD G. WEIL
JUDGE, SUPERIOR COURT OF CALIFORNIA

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FINAL APPROVAL ORDER AND JUDGMENT

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FIRM RESUME

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Practice Areas: Consumer and Securities Class Action, Civil Litigation, Wage and Hour Class Actions, Transactional Law

Admitted: 1973, Illinois; 1976, California

Biography: Law Clerk to Justice Thomas J. Moran, Illinois Supreme Court, 1973-1975, while on Illinois Court of Appeals. Instructor, Oil and Gas Law: California Western School of Law, 1981; University of San Diego School of Law, 1983. Sole Practitioner 1976-1987. Partner, Blumenthal & Ostroff, 1988-1995. Partner, Blumenthal, Ostroff & Markham, 1995-2001. Partner, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2018. Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP, 2018 - present.

Member: San Diego County, Illinois State and American Bar Associations; State Bar of California.

Educated: University of Wisconsin (B.A., 1970); Loyola University of Chicago (J.D., 1973);

Summer Intern (1971) with Harvard Voluntary Defenders

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Admitted: 1999, California

Biography: Associate, Blumenthal, Ostroff & Markham, 1999-2001. Associate, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Member: State Bar of California, Ninth Circuit Court of Appeals, Third Circuit Court of Appeals

Educated: University of California at Berkeley (B.A., 1994); University of San Diego School of Law (J.D. 1999)

Awards: Top Labor & Employment Attorney 2016; Top Appellate Reversal - Daily Journal 2015; Super Lawyer 2015-2018

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Admitted: 2006, California

Educated: University of California at San Diego (B.A., 2002); University of San Diego School of Law (J.D. 2006)

Biography: Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Awards: Rising Star 2015

Nicholas J. De Blouw

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Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: Wayne State University (B.A. 2008); California Western School of Law (J.D. 2011)

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Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2010, California

Educated: University of California, San Diego (B.S. 2006); University of Southern California, Gould School of Law (J.D. 2010)

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Practice Areas: Civil Litigation; Wage and Hour Class Actions

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Educated: University of California, San Diego (B.A. 1998); Loyola Law School (J.D. 2001)

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Admitted: 2011, California; 2016 Arizona

Educated: University of Michigan (B.A. 2008); California Western School of Law (J.D. 2011)

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Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: Arizona State University; University of San Diego School of Law

Scott Blumenthal

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, New Mexico

Educated: University of Southern California; California Western School of Law

REPORTED CASES

Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425 (9th Cir. 2015) (The panel reversed the district court's order granting Luxottica Retail North America, Inc.'s motion to compel arbitration of claims and dismissing plaintiff's first amended complaint, in a putative class action raising class employment-related claims and a non-class representative claim for civil penalties under the Private Attorney General Act.);

Securitas Security Services USA, Inc. v. Superior Court, 234 Cal. App. 4th 1109 (Cal. Feb. 27, 2015) (Court of Appeal concluded the trial court correctly ruled that *Iskanian* rendered the PAGA waiver within the parties' dispute resolution agreement unenforceable. However, the Court of Appeal then ruled the trial court erred by failing to invalidate the non-severable class action waiver from the agreement and remanded the entire complaint, including class action and PAGA claims, be litigated in the Superior Court);

Sussex v. United States Dist. Court for the Dist. of Nev., 781 F.3d 1065 (9th Cir. 2015) (The panel determined that the district court clearly erred in holding that its decision to intervene mid-arbitration was justified under *Aerojet-General*. Specifically, the panel held that the district court erred in predicting that an award issued by the arbitrator would likely be vacated because of his "evident partiality" under 9 U.S.C. § 10(a)(2).);

Provost v. YourMechanic, Inc., 2020 Cal. App. Lexis 955 (Oct. 15, 2020) (Court of Appeals affirmed denial of arbitration of PAGA claim, and held in a case of first impression, that there was no additional standing rules for PAGA claim brought by independent contractor);

In re Tobacco Cases II, 41 Cal. 4th 1257 (2007); Washington Mutual Bank v. Superior Court, 24 Cal. 4th 906 (2001); Rocker v. KPMG LLP, 148 P.3d 703; 122 Nev. 1185 (2006); PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, 150 Cal. App. 4th 384 (2007); Hall v. County of Los Angeles, 148 Cal. App. 4th 318 (2007); Coshov v. City of Escondido, 132 Cal. App. 4th 687 (2005); Daniels v. Philip Morris, 18 F.Supp 2d 1110 (S.D. Cal.1998); Gibson v. World Savings & Loan Asso., 103 Cal. App. 4th 1291 (2003); Jordan v. Department of Motor Vehicles, 75 Cal. App. 4th 445 (1999); Jordan v. Department of Motor Vehicles, 100 Cal.App. 4th 431 (2002); Norwest Mortgage, Inc. v. Superior Court, 72 Cal.App.4th 214 (1999); Hildago v. Diversified Transp. Sya, 1998 U.S. App. LEXIS 3207 (9th Cir. 1998); Kensington Capital Mgal. v. Oakley, Inc., 1999 U.S. Dist LEXIS 385; Fed.Sec.L.Rep. (CCH) P90, 411 (1999 C.D. Cal.); Lister v. Oakley, Inc., 1999 U.S. Dist. LEXIS 384; Fed. Sec. L. Rep. (CCH) P90,409 (C.D Cal. 1999); Olszewski v. Scripps Health, 30 Cal. 4th 798 (2003); Steroid Hormone Product Cases, 181 Cal. App. 4th 145 (2010); Owen v. Macy's, Inc., 175 Cal. App. 4th 462 (2009); Taiheiyo Cement Corp. v. Superior Court, 117 Cal. App. 4th 380 (2004); Taiheiyo Cement Corp. v. Superior Court, 105 Cal.App. 4th 398 (2003); McMeans v. Scripps Health, Inc., 100 Cal. App. 4th 507 (2002); Ramos v. Countrywide Home Loans, 82 Cal.App. 4th 615 (2000); Tevssier v. City of San Diego, 81 Cal.App. 4th 685 (2000); Washington Mutual Bank v. Superior Court, 70 Cal. App. 4th 299 (1999); Silvas v. E*Trade Mortg. Corp., 514 F.3d 1001 (9th Cir. 2008); Silvas v. E*Trade Mortg. Corp., 421 F. Supp. 2d 1315 (S.D. Cal. 2006); McPhail v. First Command Fin. Planning, Inc., 2009 U.S. Dist. LEXIS 26544 (S.D. Cal. 2009); McPhail v. First Command Fin. Planning, Inc., 251 F.R.D. 514 (S.D. Cal. 2008); McPhail v. First Command Fin. Planning, Inc., 247 F.R.D. 598 (S.D. Cal. 2007); Barcia v. Contain-A-Way, Inc., 2009 U.S. Dist. LEXIS 17118 (S.D. Cal. 2009); Barcia v. Contain-A-Way, Inc., 2008 U.S. Dist. LEXIS 27365 (S.D. Cal. 2008); Wise v. Cubic Def. Applications, Inc., 2009 U.S. Dist. LEXIS 11225 (S.D. Cal. 2009); Gabisan v. Pelican Prods., 2009 U.S. Dist. LEXIS 1391

(S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 630 F. Supp. 2d 1222 (S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 2008 U.S. Dist. LEXIS 102380 (S.D. Cal. 2008); Louie v. Kaiser Found. Health Plan, Inc., 2008 U.S. Dist. LEXIS 78314 (S.D. Cal. 2008); Weltman v. Ortho Mattress, Inc., 2010 U.S. Dist. LEXIS 20521 (S.D. Cal. 2010); Weltman v. Ortho Mattress, Inc., 2008 U.S. Dist. LEXIS 60344 (S.D. Cal. 2008); Curry v. CTB McGraw-Hill, LLC, 2006 U.S. Dist. LEXIS 5920; 97 A.F.T.R.2d (RIA) 1888; 37 Employee Benefits Cas. (BNA) 2390 (N.D. Cal. 2006); Reynov v. ADP Claims Servs. Group, 2006 U.S. Dist. LEXIS 94332 (N.D. Cal. 2006); Kennedy v. Natural Balance Pet Foods, Inc., 2010 U.S. App. LEXIS 248 (9th Cir. 2010); Kennedy v. Natural Balance Pet Foods, Inc., 2008 U.S. Dist. LEXIS 38889 (S.D. Cal. 2008); Kennedy v. Natural Balance Pet Foods, Inc., 2007 U.S. Dist. LEXIS 57766 (S.D. Cal. 2007); Sussex v. Turnberry/MGM Grand Towers, LLC, 2009 U.S. Dist. LEXIS 29503 (D. Nev. 2009); Picus v. Wal-Mart Stores, Inc., 256 F.R.D. 651 (D. Nev. 2009); Tull v. Stewart Title of Cal., Inc., 2009 U.S. Dist. LEXIS 14171 (S.D. Cal. 2009); Keshishzadeh v. Gallagher, 2010 U.S. Dist. LEXIS 46805 (S.D. Cal. 2010); Keshishzadeh v. Arthur J. Gallagher Serv. Co., 2010 U.S. Dist. Lexis 116380 (S.D. Cal. 2010); In re Pet Food Prods. Liab. Litig., MDL Docket No. 1850 (All Cases), 2008 U.S. Dist. LEXIS 94603 (D.N.J. 2008); In re Pet Food Prods. Liab. Litig., 629 F.3d 333 (3rd Cir. 2010); Puentes v. Wells Fargo Home Mortgage, Inc., 160 Cal. App. 4th 638 (2008); Rezec v. Sony Pictures Entertainment, Inc., 116 Cal. App. 4th 135 (2004); Badillo v. Am. Tobacco Co., 202 F.R.D. 261 (D. Nev. 2001); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin., 2010 U.S. App. Lexis 23025 (9th Cir. 2010); Dirienzo v. Dunbar Armored, Inc., 2011 U.S. Dist. Lexis 36650 (S.D. Cal. 2011); Rix v. Lockheed Martin Corp., 2011 U.S. Dist Lexis 25422 (S.D. Cal. 2011); Weitzke v. Costar Realty Info., Inc., 2011 U.S. Dist Lexis 20605 (S.D. Cal. 2011); Goodman v. Platinum Condo. Dev., LLC, 2011 U.S. Dist. LEXIS 36044 (D. Nev. 2011); Sussex v. Turnberry/MGM Grand Towers, LLC, 2011 U.S. Dist. LEXIS 14502 (D. Nev. 2011); Smith v. Kaiser Foundation Hospitals, Inc., 2010 U.S. Dist. Lexis 117869 (S.D. Cal. 2010); Dobrosky v. Arthur J. Gallagher Serv. Co., LLC, No. EDCV 13-0646 JGB (SPx), 2014 U.S. Dist. LEXIS 106345 (C.D. Cal. July 30, 2014); Metrow v. Liberty Mut. Managed Care LLC - Class Certification Granted, Metrow v. Liberty Mut. Managed Care LLC, No. EDCV 16-1133 JGB (KKx), 2017 U.S. Dist. LEXIS 73656 (C.D. Cal. May 1, 2017); Nelson v. Avon Products, Inc., Class Certification Granted, U.S. District Court for The Northern District of California, Case No. 13-cv-02276-BLF, 2015 U.S. Dist. LEXIS 51104 (N.D. Cal. Apr. 17, 2015); Orozco v. Illinois Tool Works Inc., Class Certification Granted, 2017 U.S. Dist. LEXIS 23179 (E.D. Cal. Feb. 16, 2017); Rieve v. Coventry Health Care, Summary Judgment *Sua Sponte* Granted for Plaintiff, Rieve v. Coventry Health Care, Inc., 870 F. Supp. 2d 856 (C.D. Cal. 2012)

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County Superior Court, Case No. 37-2014-00005608; Behar v. Union Bank, Orange County Superior Court, Case No. 30-2009-00317275; Bell v. John Stewart Company, Alameda County Superior Court, Case No. RG14728792; Bennett v. Custom Built Personal Training, Monterey County Superior Court, Case No. M127596; Bermant v. Bank of America, Investment Services, Inc., Los Angeles Superior Court, Civil Action No. BC342505; Bethley v. Raytheon Company, United States District Court, Central District of California, Case No. SACV10-01741; Betorina v. Randstad US, L.P., U.S. District Court Northern District of California, Case No. 3:15-cv-03646-MEJ; Beverage v. Edcoa Inc., Sacramento County Superior Court, Case No. 2013-00138279; Bova v. Washington Mutual Bank / JP Morgan Chase, U.S. District Court, Southern District California, Case No. 07-cv-2410; Bowden v. Sunset Parking Services, LLC & LAZ Parking California, LLC - Settled San Diego County Superior Court, Case No. 37-2012-00101751-CU-OE-CTL; Briseno v. American Savings Bank, Class Certification Granted, Orange County Superior Court, Case No. 774773; Brueske v. Welk Resorts, San Diego Superior Court, Case No 37-2010-00086460; Bueche v. Fidelity National Management Services, U.S. District Court, Eastern District of California, Case No. 13-cv-01114; Bunch v. Pinnacle Travel Services, LLC, Los Angeles County Superior Court, Case No. BC552048; Butler v. Stericycle, Inc & Appletree Answering Services of California, Inc., Sacramento County Superior Court, Case No. 34-2015-00180282; Cabral v. Creative Communication Tech., Class Certification Granted, Los Angeles Superior Court, Case No. BC402239; Cardoza v. Wal-Mart Associates, Inc., U.S. District Court Northern District of California, Case No. 4:15-cv-01634-DMR; Castro v. Vivint Solar, Inc., San Diego County Superior Court, Case No. 37-2014-00031385-CU-OE-CTL; Cavazos v. Heartland Automotive Services, Inc., Riverside County Superior Court, Case No. PSC 1401759; Cohen v. Bosch Tool, San Diego Superior Court, Case No. GIC 853562; Comstock v. Washington Mutual Bank - Class Certification Granted, San Diego County Superior Court, Case No. GIC820803; Conley v. Norwest, San Diego County Superior Court, Case No. N73741; Connell v. Sun Microsystems, Alameda Superior Court, Case No. RG06252310; Corrente v. Luxe Valet, Inc., San Francisco County Superior Court, Case No. CGC-15-545961; Cruz v. Redfin Corporation, U.S. District Court Northern District of California, Case No. 3:14-cv-05234-THE; Culley v. Lincare Inc. & Alpha Respiratory Inc., U.S. District Court eastern District of California, Case No. 2:15-cv-00081-GEB-CMK; Cunningham v. Leslie's Poolmart, Inc., U.S. District Court, Central District of California, Case No. 13-cv-02122-CAS; Curry v. California Testing Bureau/McGraw Hill, U.S. District Court, Northern District of California, Case No. C-05-4003 JW; Daniels, et al. v. Philip Morris,(In Re Tobacco Cases II) – Class Certification Granted, San Diego Superior Court, Case No. JCCP 4042; Davis v. Genex Holdings Inc., Santa Clara County Superior Court, Case No. 1-13-cv-240830; Davis v. Clear Connection, LLC, San Diego County Superior Court, Case No. 37-2014-00035173-CU-OE-CTL; Day v. WDC Exploration, Orange County Superior Court, Case No. 30-2010-00433770; Dedrick v. Hollandia Diary, San Diego County Superior Court, Case No. 37-2014-00004311-Cu-OE-CTL; Delmare v. Sungard Higher Education - Settled U.S. District Court, Southern District of California, Case No. 07-cv-1801; Del Rio v. Tumi Stores, Inc., San Diego County Superior Court, Case No. 37-2015-00022008-CU-OE-CTL; Dewane v. Prudential, U.S. District Court, Central District of California, Case No. SA CV 05-1031; Diesel v. Wells Fargo Bank, Orange County Superior Court, Case No. 30-2011-00441368; Dirienzo v. Dunbar Armored, U.S. District Court, Southern District of California, Case No. 09-cv-2745; Dobrosky v. Arthur J. Gallagher Service Company, LLC, Class certification Granted, No. EDCV 13-0646 JGB (Spx); Dodds v. Zaven Tootikian, Los Angeles County Superior Court, Case No. BC494402; Drumheller v. Radioshack Corporation, United States District Court, Central District of California, Case No. SACV11-355; Enger v. Kaiser Foundation Health Plan, U.S. District Court, Southern District of California, Case No. 09-cv-1670; Escobar v. Silicon Valley Security & Patrol, Inc., Santa Clara County Superior Court, Case No. 1-14-cv272514; Fierro v. Chase Manhattan - Class Certification Granted, Settled San Diego Superior Court, Case No. GIN033490; Figueroa v. Circle K Stores, Inc., San Diego County Superior Court, Case No. 37-2012-00101193-CU-OE-CTL; Finch v. Lamps Plus, (Lamps Plus Credit Transaction Cases), San Diego Superior Court, Case No. JCCP 4532; Fletcher v. Verizon, U.S. District Court, Southern

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Navajo Express, Inc. – San Bernardino County Superior Court, Case No. CIVDS1613846; Lara v. Commercial Protective Service, Inc. – Los Angeles County Superior Court, Case No. BC648921; Picos v. Culinart of California, Inc. – San Diego County Superior Court, Case No. JCCP 4892; Samaniego v. A&I Transport, Inc. – Santa Cruz County Superior Court, Case No. 16CV01894; Bailey v. Romanoff Floor Covering, Inc. – U.S. District Court, Eastern District of California, Case No. 17-CV-00685-TLN-CMK; Aguirre v. Bitech, Inc. – Sacramento County Superior Court, Case No. 34-2016-002022; Phillips v. DI Overnite LLC – San Diego County Superior Court, Case No. 37-2016-00016800-CU-OE-CTL; Jacob v. Pride Transport, Inc. – Santa Cruz County Superior Court, Case No. 16CV1337; Bennett v. Heartland Express, Inc. of Iowa – San Diego County Superior Court, Case No. 37-2016-00015056-CU-OE-CTL; Stapf v. Mercer Health & Benefits Administration LLC – Los Angeles County Superior Court, Case No. BC643007; Armstrong v. Ruan Transport Corporation – San Bernardino County Superior Court, Case No. CIVDS1605897; Geiger v. Floyd’s 99-California LLC – Orange County Superior Court, Case No. 30-2016-00874943-CU-OE-CXC; Mondrian v. Trius Trucking, Inc. – Fresno County Superior Court, Case No. 16CECG01501; Johnson v. Fedex Office and Print Services, Inc. – Alameda County Superior Court, Case No. RG17856291; Rios v. Pacific Western Bank – San Diego County Superior Court, Case No. 37-2016-00038083; Sanders v. Old Dominion Freight Lines, Inc. – San Diego County Superior Court, Case No. 37-2016-00030725-CU-OE-CTL; Taylor v. Gardner Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1614280; Couture v. Wal-Mart Associates, Inc. – U.S. District Court, Eastern District of California, case No. 16-CV-02202-VC; Bertuol v. AHMC Anaheim Regional Medical Center LP – Orange County Superior Court, Case No. 30-2017-00899024-CO-OE-CXC; Espinoza v. Prime Communications of California, LLC – San Mateo County Superior Court, Case No. 16CIV01563; Archuletta v. Tidy Services, Inc. – Orange County Superior court, Case No. 30-2016-008611892-CU-OE-CXC; Puccini v. Earthbound Farm, LLC – Santa Clara County Superior Court, Case No. 17CV308643; Vikram v. First Student Management, LLC – U.S. District Court, Northern District of California, Case No. 17-CV-04656-KAW; Blair v. Ashley Distribution Services, LTD. – U.S. District Court, Central District of California, Case No. 17-CV-01427-JAK-SP; Richardson v. Service Staffing, LLC – Orange County Superior Court, Case No. 30-2017-00899039-CU-OE-CXC; Coffin v. Certified Freight Logistics, Inc. – San Diego County Superior Court, Case No. 37-2016-00036523-CU-OE-CTL; Encarnacion v. S.A.S. Services Group, Inc. – San Diego County Superior Court, Case No. 37-2017-00026726-CU-OE-CTL; Vasquez v. Golden State Overnight Delivery Service, Inc. – Alameda County Superior Court, Case No. RG17862924; Karr v. Tristar Managed Care, Inc. – Contra Costa Superior Court, case No. MSC17-00650; Gouveia v. Central Cal Transportation – San Joaquin County Superior Court, Case No. STK-CV-UOE-2017-0001765; Miranda v. Genex Services, LLC – U.S. District Court, Northern District of California, Case No. 17-CV-01438-JD; Spears v. Health Net of California, Inc. – Sacramento County Superior Court, Case No. 34-2017-00210560; Martinez v. Geil Enterprises, Inc. – Fresno County Superior Court, Case No. 17CECG01879; McComack v. Marriott Ownership Resorts, Inc. – U.S. District Court, Southern District of California, Case No. 17CV1663 BEN WVG; Velasco v. Lemonade Restaurant Group, LLC – Los Angeles County Superior Court, Case No. BC672235; Smith v. Personnel Services, Inc. – U.S. District Court, Northern District of California, Case NO. 17-CV-03594-SK; Gabriel v. Kuni SDA, LLC – San Diego County Superior Court, Case No. 37-2017-000251191-CU-OE-CTL; Miller v. Mattress Firm, Inc. – Santa Clara County Superior Court, Case No. 17CV313148; Provost v. Yourmechanic, Inc. – San Diego County Superior Court, Case No. 37-2017-00024056-CU-OE-CTL; Zirpolo v. UAG Stevens Creek II, Inc. – Santa Clara County Superior Court, Case No. 17CV313457; Salazar v. Aids Healthcare Foundation – San Diego County Superior Court, Case No. 37-2017-00033482-CU-OE-CTL; Knipe v. Amazon.com, Inc. – San Diego County Superior Court, Case No. 37-2017-00029426-CU-OE-CTL; Erwin v. Caremeridian, LLC – Fresno County Superior Court, Case No. 17CECG03048; Davis v. Cox Communications California, LLC – U.S. District Court, Southern District of California, Case No. 16-CV-00989-BAS-BLM; Lara v. RMI International, Inc. – Los Angeles County Superior Court, Case No. BC597695; Harper v. C.R. England, Inc. – U.S. District Court, Utah Central

Division, Case No. 16-CV-00906-DB; Mrazik v. C.H. Robinson Company – U.S. District Court, Central District of California, Case No. 12-CV-02067-CAS-PLA; Horn v. Rise Medical Staffing, LLC – U.S. District Court, Eastern District of California, Case No. 2:17-cv-01967-MCE-KJN; Pasallo v. GSG Protective Services CA Inc. – San Diego Superior Court, Case No. 37-2018-00037611-CU-OE-CTL; Smith v. Pacific Personnel Services, Inc. – U.S. District Court, Northern District of California, Case No. 17-cv-03594-SK; Terrado v. Accredited Debt Relief, LLC – San Diego Superior Court, Case No. 37-2018-00014181-CU-OE-CTL; Escobedo v. Pacific Western Bank – Los Angeles Superior Court, Case No. BC682686; Wade v. Automobile Club of Southern California – Orange County Superior Court, Case No. 30-2017-00960268-CU-OE-CXC; Montano v. American Automobile Association of Northern California – Contra Costa County Superior Court, Case No. CIVMSC18-01539; Perez v. Summit Interconnect, Inc. – Orange County Superior Court, Case No. 30-2018-00995403-CU-OE-CXC; Wolleson v. Gosch Imports, Inc. – Riverside County Superior Court, Case No. RIC170356; Banuelos v. Ortho Mattress, Inc. – Orange County Superior Court, Case No. 30-2020-01161304-CU-OE-CXC; Castellanos v. Miller Automotive Group, Inc. – Los Angeles County Superior Court, Case No. BC699211; Tressler v. Spoonful Management, LLC – Los Angeles County Superior Court, Case No. BC71940; Delph v. Employee Retention Services, LLC – San Diego County Superior Court, Case No. 37-2018-00007885; Romero v. May Trucking Company – U.S. District Court, Central District of California, Case No. 5:17-cv-02166-JGB-SHK; Miranda v. Genex Services, LLC – San Bernardino County Superior Court, Case No. CIVDS1700779; Moore v. Zirx Transportation Services, Inc. – Los Angeles County Superior Court, Case No. CGC-18-566655; Sottile v. Motion Recruitment Partners – Santa Clara County Superior Court, Case No. 18CV321677; Shahbazian v. Fast Auto Loans, Inc. – U.S. District Court, Central District of California, Case No. 2:18-cv-03076-ODW-KS; Salazar v. Johnson & Johnson Consumer Inc. – Los Angeles County Superior Court, Case No. BC702468; Conti v. L’Oreal USA S/D, Inc. – U.S. District Court, Eastern District of California, Fresno, Case No. 1:19-CV-00769-LJO-SKO; Mercado v. Security Industry Specialists, Inc. – Santa Clara County Superior Court, Case No. 17CV320059; Vikili v. Dignity Health – San Francisco County Superior Court, Case No. CGC-18-569456; Bagby v. Swissport SA, LLC – Los Angeles County Superior Court, Case No. BC691058; Henry v. Motion Entertainment Group, LLC – San Francisco County Superior Court, Case No. CGC18565643; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Lanuza v. AccentCare, Inc. – San Francisco County Superior Court, Case No. CGC-18-565521; Thomas v. Easy Driving School, LLC – San Diego County Superior Court, Case No. 37-2018-00047639-CU-OE-CTL; Erickson v. Erickson – Contra Costa County Superior Court, Case No. MSC18-00307; Martin v. Menzies Aviation (USA) Inc. – San Francisco County Superior Court, Case No. CGC-18-566072; Mortimer v. Healthsouth Bakersfield Rehabilitation Hospital, LLC – Kern County Superior Court, Case No. BCV-18-102761; Alcaraz v. Red Lion Hotels Corporation – San Francisco County Superior Court, Case No. CGC-18-570310; Calhoun v. Total Transportation and Distribution, Inc. – San Diego County Superior Court, Case No. 37-2018-00058681-CU-OE-CTL; Rataul v. Overton Security Services, Inc. – Alameda County Superior Court, Case No. RG18891882; Beltran v. Compass Bank – San Diego County Superior Court, Case No. 37-2019-00024475-CU-OE-CTL; Kirshner v. Touchstone Golf, LLC – San Diego County Superior Court, Case No. 37-2018-00028865-CU-OE-CTL; Pizarro v. The Home Depot, Inc. – U.S. District Court for the Northern District of Georgia-Atlanta Division; Hatanaka v. Restore Rehabilitation, LLC – San Diego County Superior Court, Case No. 37-2018-00034780-CU-OE-CTL; Faria v. Carriage Funeral Holdings, Inc. – Contra Costa County Superior Court, Case No. MSC18-00606; Ontiveros v. Baker Concrete Construction, Inc. – Santa Clara County Superior Court, Case No. 18CV328679; Morales v. Redlands Automotive Services, Inc. – San Bernardino County Superior Court, Case No. CIVDS1807525; Ramirez v. Carefusion Resources, LLC – U.S. District Court, Southern District of California; Amster v. Starbucks Corporation – San Bernardino Superior Court, Case No. CIVDS1922016; Kutzman v. Derrel’s Mini Storage, Inc. – U.S. District, Eastern District of California, Case No. 1:18-cv-00755-AWI-JLT; Marks v. Universal Propulsion Company, Inc. – Solano County Superior Court, Case No. FCS051608; Martinez v. Geil Enterprises,

Inc. – Fresno County Superior Court, Case No. 17CECG01480; Teniente v. Cirrus Asset Management, Inc. – Los Angeles County Superior Court, Case No. 20STCV16302; Blackshear v. California Fine Wine & Spirits LLC – Sacramento County Superior Court, Case No. 34-2018-00245842; Warnick v. Golden Gate America West LLC – Los Angeles County Superior Court, Case No. BC714176; Bennett v. Dnata Aviation USA, Inc. – San Francisco County Superior Court, Case No. CGC-18-566911; George v. PF Stockton Fitness LLC – Sacramento County Superior Court, Case No. 34-2019-00261113-CU-OE-GDS; Oshana v. Farmers and Merchants Bank of Central California – Stanislaus County Superior Court, Case No. CV-19-003427; Vasquez v. Packaging Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-01935-PSG-PLA; Palomino v. Zara USA Inc. – Orange County Superior Court, Case No. 30-2018-00992682-CU-OE-CXC; Simmons v. Joe & The Juice LA, LLC – San Francisco County Superior Court; Pacia v. CIM Group, L.P. – Los Angeles County Superior Court, Case No. BC709666; Flores v. Plastic Express – Los Angeles County Superior Court, Case No. BC71971; Madera v. William Warren Properties, Inc. – Orange County Superior Court, Case No. 30-2019-01055704-CU-OE-CXC; Hernandez v. Quality Custom Distribution – Orange County Superior Court, Case No. 30-2018-01010611-CU-OE-CXC; Arango v. Schlumberger Technology Corporation – Orange County Superior Court, Case No. 30-2019-01056839-CU-OE-CXC; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Ramirez v. J E H Enterprises, Inc. – San Francisco County Superior Court, Case No. CGC-19-574691; Sullen v. First Service Residential California, LLC – San Francisco County Superior Court, Case No. CGC-19-575131; Valentino v. East Bay Tire Co. – Solano County Superior Court, Case No. FCS053067; Murphy v. Rockler Retail Group, Inc. – Sacramento Superior Court, Case No. 34-2019-00251220; Shahbazian v. Onewest Bank – Los Angeles County Superior Court, Case No. 19STCV23722; Bruemmer v. Tempur Retail Stores LLC – Marin County Superior Court, Case No. CIV1803646; Antonios v. Interface Rehab, Inc. – Orange County Superior, Case No. 30-2019-01067547-CU-OE-CXC; Tavallodi v. DC Auto, Inc. – San Bernardino, Case No. CIVDS1833598; Miranda v. The Lloyd Pest Control Co. – San Diego County Superior Court, Case No. 37-2018-00052510-CU-OE-CTL; Soenardi v. Magnussen Imports, Inc. – Santa Clara County Superior Court, Case No. 18CV340003; Thai v. Team Industrial Services, Inc. – Los Angeles County Superior Court, Case No. 19STCV21953; Castillo v. A.J. Kirkwood & Associates, Inc. – Los Angeles County Superior Court, Case No. 19STCV04435; Moss v. Jabil Inc. – Alameda County Superior Court, Case No. HG20050536; Billosillo, Jr. v. Crown Energy Services, Inc. – San Diego County Superior Court, Case No. 37-2018-00058254-CU-OE-CTL; Tarkington v. Freetime, Inc. – San Diego County Superior Court, Case No. 37-2019-00011473-CU-OE-CTL; McIntyre v. J.J.R. Enterprises, Inc. – Sacramento County Superior Court, Case No. 34-2019-00251220; Bucur v. Pharmaca Integrative Pharmacy, Inc. – San Diego County Superior Court, Case No. 37-2019-00009409-CU-OE-CTL; Batin v. McGee Air Services, Inc. – Santa Clara County Superior Court, Case No. 19CV347733; Terry v. McGee Air Services, Inc. – King County Superior Court of Washington, Case No. 19-2-3321-5 KNT; Weiss v. Niznik Behavioral Health Resources, Inc. – San Diego County Superior Court, Case No. 37-2019-00039441-CU-OE-CTL; Cavada v. Inter-Continental Hotels Group, Inc. – U.S. District Court, Southern District of California, Case No. 3:19-cv-01675-GPC-AHG; Lesevic v. Spectraforce Technologies, Inc. – U.S. District Court, Northern District of California, Case No. 5:19-cv-03126-LHK; Mutchler v. Circle K Stores, Inc. – San Diego County Superior Court, Case No. 37-2020-00016331-CU-OE-CTL; Azima v. CSI Medical Group – Santa Clara County Superior Court, Case No. 19CV345450; Porras v. Baypointe Enterprises, LLC – Los Angeles County Superior Court, Case No. 19STCV31015; Mitchell v. Mack Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1928334; Watts v. T.R.L. Systems, Incorporated – Orange County Superior Court, Case No. 30-2019-01102457-CU-OE-CXC; Price v. DMSD Restaurants Inc. – San Diego County Superior Court, Case No. 37-2019-00024062-CU-OE-CTL; Jacobs v. Nortek Security & Control LLC – San Diego County Superior Court, Case No. 37-2019-0019735-CU-OE-CTL; Gonzalez v. Hub International Midwest – San Bernardino County Superior Court, Case No. CIVDS1900463; Cisneros v. Bluepearl California, Inc. – San Mateo Superior Court, Case No. 19-

CIV-05707; Garcia v. Gallagher Basset Services – San Bernardino Superior Court, Case No. CIVDS2004140; Callow v. Adventist Health System/West – Placer County Superior Court, Case No. SCV0043607; Dominguez v. Kimco Facility Services, LLC – Los Angeles County Superior Court, Case No. 19STCV37592; Searles v. Robert Heath Trucking, Inc. – Los Angeles County Superior Court, Case No. 19STCY30808; Rangel v. Pioneer Hi-Bred international, Inc. – Yolo County Superior Court, Case No. CV-19-1797; Ivon v. Sinclair Television of California, Humboldt County Superior Court, Case No. DR190699; Williams v. Henkels & McCoy, Inc. – San Bernardino County Superior Court, Case No. CIVDS2003888; Cano v. Larry Green Chrysler Jeep Dodge, Inc. – Riverside County Superior Court, Case No. BLC1900184; Lopez v. Cepheid – Santa Clara County Superior Court, Case No. 19CV358827; Hernandez v. Quick Dispense, Inc. – Los Angeles County Superior Court, Case No. 19STCV29405; Lopez v. Lacoste USA, Inc. – San Bernardino County Superior Court, Case No. CIVDS1914626; Duhe v. Hospital Couriers Nevada, LLC – Contra Costa County Superior Court, Case No. MSC19-01377; Law v. Sequoia Equities, Incorporated – Contra Costa Superior Court, Case No. C19-01925; Dvorak v. Rockwell Collins, Inc. – San Diego County Superior Court, Case No. 37-2019-00064397-CU-OE-CTL; Noguera v. Metal Container Corporation – Riverside County Superior Court, Case No. RIC2003235; Leon v. Miller Event Management, Inc. – San Luis Obispo Superior Court, Case No. 19CV-0435; Leon v. Miller Event Management, Inc. – San Luis Obispo County Superior Court, Case No. 19CV-0435, Camacho-Bias v. Serve U Brands Inc. – Butte County Superior Court, Case No. 20CV00603; La Pietra v. Entertainment Partners Services, LLC – Los Angeles County Superior Court, Case No. 19STCV39529; Celis v. Theatre Box - San Diego, LLC – San Diego County Superior Court, Case No. ____; Ignacio v. Laboratory Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-06079-AB-RAO; Kovnas v. Cahill Contractors LLC – Alameda County Superior Court, Case No. RG19037852; Hersh v. Mrs. Gooch's Natural Food – Los Angeles County Superior Court, Case No. 19STCV10444; Miller v. The Permanente Medical Group – Alameda County Superior Court, Case No. RG19045904; Vasquez v. Autoalert, LLC – Orange County Superior Court, Case No. 30-2019-01114549-CU-OE-CXC; Cavanaugh v. Morton Golf, LLC – Sacramento County Superior Court, Case No. 34-2019-00270176; Coley v. Monroe Operations, LLC – Alameda County Superior Court, Case No. RG20063188; Ramirez v. Sierra Aluminum Company – U.S. District Court, California Central District Court, Case No. 5:20-cv-00417-JGB-KK; Marrero v. Stat Med, P.C. – Alameda County Superior Court, Case No. HG19043214; Enriquez v. Solari Enterprises, Inc. – Los Angeles County Superior Court, Case No. 20STCV11129; Craig v. Hometown Heart – San Francisco County Superior Court, Case No. CGC-20-582454; Lopez v. Hy0Lang Electric California, Inc. – San Diego County Superior Court, Case No. 37-2020-00012543-CU-OE-CTL; Heuklom v. Clara Medical Group, P.C. – San Francisco County Superior Court, Case No. CGC-20-585918; Dominguez v. Lifesafer of Northern California – Monterey County Superior Court, Case No. 20CV002586; Kiseleva v. Totalmed Staffing Inc. – U.S. District Court, California Northern District, Case No. 5:19-cv-06480; Vires v. Sweetgreen, Inc. – Santa Clara County Superior Court, Case No. 20CV365918; Kim v. Wireless Vision, LLC – San Bernardino County Superior Court, Case No. CIVDS2000074; Senoren v. Air Canada Corporation – Los Angeles County Superior Court, Case No. 20STCV13942; Clark v. Quest Diagnostics Incorporated – San Bernardino County Superior Court, Case No. CIVDS2018707; Green v. Shipt, Inc. – Los Angeles County Superior Court, Case No. 20STCV01001; Respass v. The Scion Group LLC – Sacramento County Superior County, Case No. 34-2020-00285265; Jackson v. Decathlon USA LLC – Alameda County Superior Court, Case No. RG2003024; Avacena v. FTG Aerospace Inc. – Los Angeles County Superior Court, Case No. 20STCV28767; Perez v. Butler America, LLC – Los Angeles County Superior Court, Case No. 20STCV20218; Christensen v. Carter's Retail, Inc. – Orange County Superior Court, Case No. 30-2020-01138792-CU-OE-CXC; Astudillo v. Torrance Health Association, Inc. – Los Angeles County Superior Court, Case No. 20STCV18424; Hansen v. Holiday AI Management Sub LLC – Contra Costa County Superior Court, Case No. CIVMSC20-00779; Almahdi v. Vitamin Shoppe Industries Inc – Santa Clara County Superior Court, Case No. 20CV365150; Krisinda v. Loyal Source Government Services LLC – U.S. District Court, California

Southern District, Case No. 3:20-cv-879-LAB-NLS; Ettedgui v. WB Studio Enterprises Inc – U.S. District Court, California Central District, Case No. 2:20-CV-08053-MCS (MAAx); Fernandez v. Nuvision Federal Credit Union – Orange County Superior Court, Case No. 30-2020-01161691-CU-OE-CJC; Aviles v. UPS Supply Chain Solutions, Inc. – Riverside County Superior Court, Case No. RIC2000727; Alcocer v. DSV Solutions, LLC – San Bernardino Superior Court, Case No. CIVDS2010345; Wilson v. Wholesome Harvest Baking, LLC – U.S. District Court, California Northern District, Case No. 4:20-cv-05186-YGR; Gregory v. Verio Healthcare, Inc. – Los Angeles County Superior Court, Case No. 20STCV37254; Rose v. Impact Group, LLC – Orange County Superior Court, Case No. 30-2020-01141107-CU-OE-CXC; Monasterio v. Citibank, N.A. – San Mateo County Superior Court, Case No. 20-CIV-03650; Martinez-Lopez v. Medamerica, Inc. – San Diego County Superior Court, Case No. 37-2020-00034393-CU-OE-CTL; Cox v. PRB Management, LLC – Solano County Superior Court, Case No. FCS055514; Nash v. K. Hovnanian Companies, LLC – Riverside County Superior Court, Case No. RIC2003319; Kyler v. Harbor Freight Tools USA, Inc. – San Diego County Superior Court, Case No. 37-2020-00015828-CU-OE-CTL; Roberts v. Solantic Corporation – Los Angeles County Superior Court, Case No. 20STCV41117; Price v. Mistras Group, Inc. – Los Angeles County Superior Court, Case No. 20STCV22485; Macias v. ABM Electrical & Lighting Solutions, Inc. – San Diego County Superior Court, Case No. 37-2020-00024997-CU-OE-CTL; Basu-Kesselman v. Garuda Labs, Inc. – San Francisco County Superior Court, Case No. CGC-20-585229; Armstrong v. Prometric LLC – Los Angeles County Superior Court, Case No. 20STCV29967; Ashlock v. Advantis Medical Staffing, LLC – San Diego County Superior Court, Case No. 37-2020-00022305-CU-OE-CTL; Wilson v. WXI Global Solutions, LLC – Los Angeles County Superior Court, Case No. 20STCV25007; Gandhale v. Select Rehabilitation, LLC – Monterey County Superior Court, Case No. 20CV002240; Starvoice v. G4S Secure Solutions (USA) Inc. – San Diego County Superior Court, Case No. 37-2020-00029421-CU-OE-CTL; Mbise v. Axlehire, Inc. – Alameda County Superior Court, Case No. RG20067350; Points v. C&J Services, Inc. – Kern County Superior Court, Case No. BCV-20-102483; Marshall v. PHI Air Medical, LLC – Lassen County Superior Court, Case No. 62973; Jauregui v. Cytotec Engineered Materials, Inc. – Orange County Superior Court, Case No. 30-2020-01164932-CU-OE-CXC



3194-C Airport Loop Drive
Costa Mesa, CA 92626
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Estimate #:	14522	Prepared By:	Michael Sutherland
Estimate Date:	7/11/2022	Direct Dial #	321.223.5067
		Email:	Msutherland@simpluris.com

Plaintiff Attorney
Attorney/Client: **Kyle Nordrehaug**
Firm: Blumenthal Nordrehaug & Bhowmik
Email: kyle@bamlawca.com

Defense Attorney
Attorney/Client:
Firm:
Email:

Case Name: NCR: Opt Out Settlement

Anticipated Total Cost	\$12,231
Capped Fee*	\$12,000

Terms:

- 1) Capped Fees assume that Simpluris will receive data in a Single Excel file with no substantial change in class size or response rate
- .2) Included is a 2021 Federal 1120 tax return to account for banking activity in 2022.

Total Possible Class Size:	1,250	Undeliverable Rate:	10%
Response Rate:	1%	Call Rate:	5%
Mailing Document Language:	English	Fund Distribution:	Simpluris
Reminder Postcard:	Yes	Redistribution:	One
Unclaimed Funds:	Escheat	State(s):	CA
		Tax Reporting Years	One

Case Setup

Data Compilation - Develop Case Specific Response Tracking - Error Reports

Category	Unit Value	# of Units	Total
Project Manager - Case Setup	\$125.00	6	\$750.00
Database Manager - Initial Data Analysis	\$140.00	6	\$840.00
Total			\$1,590.00

Notification

Notice Packet: 4 pg Notice - Double Sided - English

Check Cashing Deadline Reminder.

Category	Unit Value	# of Units	Total
Mail Notice Packet	\$1.00	1,250	\$1,250.00
Postage	\$0.52	1,250	\$650.00
NCOA/CASS/LACS	\$50.00	1	\$50.00
Undeliverable Processing	\$0.25	125	\$31.25
Skip Trace RUM	\$1.50	125	\$187.50
Remail Notice Packet	\$1.50	106	\$159.38
Remail Postage	\$0.56	106	\$59.50
Reminder Post Card Check Cashing Deadline	\$0.70	625	\$437.50
Mailing Supervisor	\$50.00	1	\$50.00
Total			\$2,875.13

Call Center

Establish Case Specific Toll Free Number

Category	Unit Value	# of Units	Total
Customer Service Reps/Call Center Support	\$75.00	3	\$225.00



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Administration

Process Mail, Opt-Outs or Objections

Category	Unit Value	# of Units	Total
Database Manager	\$125.00	2	\$250.00
Dispute/Deficiencies - Send One Cure Letter	\$2.50	13	\$31.25
Opt Out Processing	\$2.50	13	\$31.25
Data Entry	\$50.00	1	\$50.00
Project Manager	\$125.00	3	\$375.00
Weekly Reporting to Counsel	WAIVED	12 Wks of Reporting	\$0.00
Total			\$737.50

Distribution

Setup a Disbursement Account.

Print & Mail Checks to Class Members: W2's / 1099's - File Reports with Appropriate Federal & State Taxing Authorities

Account Management & Reconciliation. Use of available social security numbers, emails and social media (as may be available) to reach unlocated class members and those who haven't cashed checks at 180 days.

Category	Unit Value	# of Units	Total
Disbursement Data Preparation	\$140.00	4	\$560.00
Disbursement Manager - Data Validation	\$75.00	1	\$75.00
Setup Banking Account/QSF	\$300.00	1	\$300.00
Print & Mail Check	\$1.25	1250	\$1,562.50
Postage	\$0.50	1250	\$625.00
Process Returned Checks	\$0.50	13	\$6.25
Skip Trace Search Undeliverable Checks	\$5.00	13	\$62.50
Remail Checks (Includes Postage)	\$4.00	13	\$50.00
QSF Account Reconciliation	\$250.00	1	\$250.00
Individual Federal/State Tax Reporting	\$350.00	1	\$350.00
QSF Reporting/Declaration	\$300.00	1	\$300.00
QSF Annual Tax Preparation Fee, One year	\$1,000.00	1	\$1,000.00
Reissuing Checks/Mailing	\$5.00	19	\$93.75
Reissue W2's/1099's	\$5.00	19	\$93.75
Responding to IRS, State, Agency Inquiries	\$75.00	1	\$75.00
Escheat management-State	\$400.00	1	\$400.00
Disbursement Manager	\$125.00	4	\$500.00
Total			\$6,303.75



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Case Wrap Up

Send Final Reports to Counsel

Category	Unit Value	# of Units	Total
Data Manager-Final Reporting	\$125.00	3	\$375.00
Clerical-Clean Up Any Misc	\$50.00	2	\$100.00
Project Manager-Wrap-up Final Issues	\$125.00	2	\$250.00
Total			\$725.00

Postage \$1,334.50

Total Case Costs

\$12,231.38

All administration services to be provided by Simpluris to Client, are provided subject to the following terms and conditions:

1. **Services.** Simpluris agrees to provide Client those services set forth in the Bid (the "Services") to which these terms and conditions are attached and which has been provided to Client. As compensation for such Services, Client agrees to pay the fees for Services outlined in the Bid. However, Client such fees for Services are estimated based on the requirements provided by Client and actual fees charged by Simpluris may be greater or less than such estimate and Client will be responsible for the payment of all such fees.
2. **Billing and Payment.** Simpluris will invoice Client on a regular basis unless a specific timeframe is otherwise set forth in the Bid. Client shall pay all invoices within 30 days of receipt. Amounts unpaid after thirty (30) days are subject to a service charge at the rate of 1.5% per month or, if less, the highest rate permitted by law. Services are not provided on a contingency basis and Client shall remain liable to Simpluris for all fees for the Services, regardless of any court decisions, and/or actions by the parties, including disapproval or withdrawal of a settlement.
3. **Retention of Documents.** Unless directed otherwise in writing by the Client, Simpluris will destroy all undeliverable mail (except for undeliverable checks) on the date that it is processed and retained in Simpluris' system. Simpluris will maintain records to establish that the subject mail is undeliverable. Simpluris will retain undeliverable checks until the Qualified Settlement Fund is closed. Simpluris will also retain all other class member and putative class member correspondence (including without limitation, claims forms and opt out forms) for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later. Lastly, Simpluris will retain bank & tax documents for such period of time as it determines is required to maintain compliance with various federal and state requirements.
4. **Limitation of Liability; Disclaimer of Warranties.** Simpluris warrants that it will perform the Services diligently, with competence and reasonable care. Simpluris' only obligation will be to correct any non-conformance with the foregoing warranty. In no event will Simpluris be liable for any lost profits/opportunities, business interruption or delay or, special, consequential, or incidental damages incurred by Client relating to the performance of the Services, regardless of whether Client's claim is for breach of contract, tort (including negligence and strict liability) or otherwise. Under no circumstances will Simpluris be liable to Client for any claims, losses, costs, penalties, fines, judgment or damages, including court costs and reasonable attorney's fees (collectively, "Losses"), whether direct or indirect, arising out of, related to, or in connection with Services in an amount in excess of the total fees charged or chargeable to Client for the particular portion of the Services affected by Simpluris' omission or error. THE WARRANTIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.
5. **Force Majeure.** To the extent performance by Simpluris of any of its obligations hereunder is substantially prevented by reason of any act of God or because of any other matter beyond Simpluris' reasonable control, then such performance shall be excused and this Agreement, at Simpluris' option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.
6. **Rights in Data.** Client agrees that it will not obtain, nor does Simpluris convey, any rights of ownership in the programs, system data, or materials provided or used by Simpluris in the performance of the Services.
7. **Electronic Communications.** During the provision of the Services the parties may wish to communicate electronically with each other at a business e-mail address. However, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Accordingly, each party agrees to use commercially reasonable procedures to check for the then most commonly known viruses and to check the integrity of data before sending information to the other electronically, but each party recognizes that such procedures cannot be a guarantee that transmissions will be virus free. It remains the responsibility of the party receiving an electronic communication from the other to carry out a virus check on any attachments before launching any documents whether received on disk or otherwise.
8. **Notice.** Any notice required or permitted hereunder shall be in writing and shall be delivered personally, by, or sent by registered mail, postage prepaid, or overnight courier and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service. Notice should be addressed to an officer or principal of Client and Simpluris, as the case may be.
9. **Waiver.** Failure or delay on the part of a party to exercise any right, power or privilege hereunder shall not operate as a waiver thereof or any of other subject, right, power or privilege.
10. **Termination.** Client may terminate the Services at anytime upon 30 days prior written notice to Simpluris. Termination of Services shall in no event relieve Client of its obligation make any payments due and payable to Simpluris in respect of Services rendered up to the effective date of Termination. Simpluris may terminate this Agreement (i) for any reason upon no less than 90 days prior written notice to the Client; or (ii) upon 15 calendar days' prior written notice, if the Client is not current in payment of fees.
11. **Jurisdiction.** The parties hereto irrevocably and unconditionally submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby irrevocably and unconditionally waive any objection to the laying of venue of any such suit, action or proceeding in such Court.
12. **Survival.** Any remedies for breach of this Agreement, this Section and the following Sections will survive any expiration or termination of this Agreement: Section 4 - Limitation of Liability; Disclaimer of Warranties, Section 6 – Rights in Data, and Section 12- Jurisdiction, 14 -Confidentiality, and Section 15 – Indemnification.
13. **Entire Agreement.** These Terms and Conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.
14. **Confidentiality.** Simpluris maintains reasonable and appropriate safeguards to protect the confidentiality and security of data provided by Client to Simpluris in connection with the Services. If, pursuant to a court order or other proceeding, a third party requests that Simpluris to disclose any confidential data provided by or for Client, Simpluris will promptly notify the Client unless prohibited by applicable law. Client will then have the option to provide Simpluris with qualified legal representation at Client's expense to defend against such request. If, pursuant to a court order, Simpluris is required to disclose data, produce documents, or otherwise act in contravention of the obligation to maintain confidentiality set forth in these terms and conditions, Simpluris will not be liable for breach of said obligation.
15. **Indemnification.** Client will indemnify and hold Simpluris (and the officers, employees, affiliates and agents harmless against any Losses incurred by Simpluris, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by Simpluris in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by Simpluris pursuant to Client's instructions.
16. **Severability.** If any term or condition or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
17. **Database Administration.** Simpluris' database administration for Client assumes that Client will provide complete data that includes all information required to send notifications and calculate and mail settlement payments. Data must be provided in a complete, consistent, standardized electronic format. Simpluris' standardized format is Microsoft Excel, however, Simpluris may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by Simpluris on a time and materials basis according to Simpluris' Standard Rates.

Simpluris Security Summary – White Paper

Simpluris is committed to the security and overall protection of not only our data and information but our client's data and information, as well. As a demonstration of our commitment, we maintain SOC 2 Certification which requires strict adherence to policies and procedures surrounding information security, including processing and storage of confidential customer data. Simpluris supports a comprehensive, written Information Security Program that complies with all applicable laws and regulations (e.g. HIPAA, Gramm-Leach-Bliley Act, MA 201 CMR 17.00) and is designed to (a) ensure the security, privacy and confidentiality of Client and Class Member Information, (b) protect against any reasonably anticipated threats or hazards to the security or integrity of Client or Class Member Information, and (c) protect against unauthorized access to, use, deletion, or modification of Class Member Information. Simpluris has designated specific employees to be responsible for the administration of its Information Security Program. Also, Simpluris regularly and routinely monitors, tests, and updates our Information Security Program.

Simpluris uses Client and Class Member Information only for the purposes for which its' clients provide it, as described in any Agreements or Court Orders governing the provision of Simpluris' services in any particular case. Simpluris maintains a process for identifying, assessing, and mitigating the risks to Class Member Information in each relevant area of Simpluris' operations. At Simpluris, we continuously evaluate the effectiveness of the safeguards for controlling these risks to data and bank accounts. Simpluris restricts access to Class Member Information only to those employees, agents, or subcontractors who need to know the information to perform their jobs. Simpluris performs background checks of all its employees that will have access to Sensitive Personal Information, including a review of their references, employment eligibility, education, and criminal history to ensure they do not pose a risk to the security of Client or Class Member Information.

Simpluris adheres to the following industry best practices to safeguard its systems which process, store or transmit Client and Class Member Information:

- Identity and Access Management;
- Complex passwords are routinely and regularly changed;
- Role-based access control systems to limit individual employee access to network applications and systems based on their particular job role and function;
- Data Loss Prevention and Intrusion Prevention System software at multiple layers to prevent from internal and external threats of data leaks, malicious activity, and policy violations
- Encryption of Class Member Information if transmitted over public or wireless networks (e.g., via email, FTP, the Internet, etc.);
- Implementation of a Secure File Transfer system (using SSL encryption) for transmitting documents back and forth to clients;
- Encryption of servers, portable media, laptops, desktops, smartphones, mobile devices, and new technologies that store Class Member Information;
- Complex password authentication for remote access to Company's networks;
- Upon hire and annually after that, training of all employees with access to Class Member Information, (including any agents, and subcontractors with access to Class Member Information) about their obligations to implement the Information Security Program;
- Strict disciplinary measures for employees who violate the Information Security Program;
- Preventing terminated employees from accessing Class Member Information;
- Appropriately configured and updated firewall, antivirus, and spyware software;
- Prompt application of vendor-recommended security patches and updates to systems and other applications to avoid any adverse impact on Class Member Information;
- Separation of Duties;
- Infrastructure and Physical Security;
- Business Continuity Planning;
- Disaster Recovery Planning