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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA**

RAYMOND HUERTA, an individual, on  
behalf of himself and on behalf of all persons  
similarly situated,

Plaintiffs,

vs.

SPLAY, INC., a California Corporation; and  
DOES 1 through 50, inclusive,

Defendants.

**Case No. RG21102661**

**DECLARATION OF KYLE  
NORDREHAUG IN SUPPORT OF  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS SETTLEMENT  
1.**

**ASSIGNED FOR ALL PURPOSES TO  
JUDGE: Hon. Brad Seligman  
DEPARTMENT 23**

Hearing Date: July 12, 2022

Hearing Time: 3:00 p.m.

**Reservation No. 583206789808**

Action Filed: June 23, 2021

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 Raymond Huerta ("Plaintiff") in this matter. As such, I am fully  
4 familiar with the facts, pleadings and history of this matter. The following facts are within my own  
5 personal knowledge, and if called as a witness, I could testify competently to the matters stated  
6 herein.

7 2. This declaration is being submitted in support of the motion for preliminary approval  
8 of the proposed class action settlement with Defendant Splay, Inc. ("Defendant"), and this motion  
9 seeks entry of an order: (1) preliminarily approving the proposed settlement of this class action and  
10 PAGA action with Defendant; (2) for settlement purposes only, conditionally certifying the Class,  
11 which is comprised of "all individuals who are or previously were employed by Defendant in  
12 California who were classified as non-exempt employees at any time during the Class Period, and  
13 who have previously not released their claims" of June 23, 2017 through April 6, 2022; (3)  
14 provisionally appointing Plaintiff as the representative of the Class; (4) provisionally appointing  
15 Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug  
16 Bhowmik De Blouw LLP as Class Counsel for the Class; (5) approving the form and method for  
17 providing class-wide notice; (6) directing that notice of the proposed settlement be given to the  
18 class; (7) appointing ILYM Group as Settlement Administrator, and (8) scheduling a final approval  
19 hearing date to consider Plaintiff's motion for final approval of the settlement and entry of the  
20 Judgment, and Plaintiff's motion for approval of attorneys' fees and expenses. Attached hereto as  
21 Exhibit #1 is a copy of the fully executed Class Action Settlement Agreement ("Agreement") along  
22 with exhibits thereto. This Declaration incorporates by reference the definitions in the Agreement,  
23 and all terms defined therein shall have the same meaning as set forth in the Agreement.

24  
25 Fairness of Settlement

26 3. As consideration for this Settlement, the Gross Settlement Amount is One Million  
27 Seven Hundred Thousand Dollars (\$1,700,000) to be paid by Defendant in two installments, as set  
28 forth in the Agreement. The Gross Settlement Amount will settle all issues pending in the Action

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

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

13 5. On December 7, 2021, the Parties participated in an all-day mediation session  
14 presided over by Louis Marlin, Esq., a respected and experienced mediator of wage and hour class  
15 actions. In preparation for the mediation, Defendant provided Class Counsel with necessary  
16 information for the members of the Class, including time data, payroll data and data concerning the  
17 composition of the Class. Plaintiff analyzed the data with the assistance of damages expert, Berger  
18 Consulting, and prepared and submitted a mediation brief and damage valuation to the Mediator.  
19 At the conclusion of the all-day mediation, the Parties agreed to this Settlement. The final  
20 settlement terms were negotiated and set forth in the Agreement now presented for this Court's  
21 approval. Importantly, Plaintiff and Class Counsel believe that this Settlement is fair, reasonable  
22 and adequate.

23 6. The Gross Settlement Amount provides an average value of \$2,668 per Class  
24 Member and \$25 per workweek, and after deductions, the Net Settlement Amount provides an  
25 average recovery of \$1,711 per Class Member and \$16 per work week. The calculations to  
26 compensate for the amount due to the Class Members at the time this Settlement was negotiated  
27 were calculated by Plaintiff's expert, Berger Consulting, in advance of mediation. For the  
28 individuals whose claims are at issue in this Action, Plaintiff analyzed the data for putative class

1 members and determined the potential maximum damages for the class claims. For the Class,  
2 Plaintiff determined that the unpaid minimum and overtime wages due to the alleged illegal  
3 rounding was \$628,976, the maximum potential meal period damages were estimated to be  
4 \$2,730,136 based upon an 47% potential violation rate and after deducted in the meal premiums  
5 actually paid, the maximum potential rest period damages were estimated to be \$5,697,827 based  
6 on a 100% violation from an allege on duty policy, and, the maximum damages for unreimbursed  
7 expenses were estimated to be \$84,991. In total, the damages for the Class were calculated to have  
8 a maximum total value of \$9,111,600. In addition, Plaintiff calculated that the maximum value of  
9 the waiting time penalties were \$1,174,663 and the maximum value of the wage statement penalties  
10 were between \$446,200 and \$1,082,400, depending on the predicate violation giving rise to the  
11 penalty. These wage statement and waiting time penalties claims potentially have a much smaller  
12 value, even if damages were awarded, to the extent that they are only derivative of the meal and rest  
13 break claims.<sup>1</sup> Consequently, the Gross Settlement Amount represents more than 18% of the value  
14 of the potential maximum damages at issue for the Class in this case, assuming these amounts could  
15 all be proven in full at trial.<sup>2</sup> The above maximum calculations should then be adjusted in  
16 consideration for both the risk of certification and the risk of establishing class-wide liability on all  
17 claims. Given the amount of the Settlement as compared to the potential value of the claims, the  
18 Settlement is most certainly fair and reasonable.

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19  
20 <sup>1</sup> While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203  
21 and 226, at mediation Plaintiffs recognized that these claims were subject to various defenses  
22 asserted by Defendant, including, but not limited to, a good faith dispute defense as to whether any  
23 premium wages for meal or rest periods or other wages were owed given Defendant's position that  
24 Plaintiffs were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576,  
25 584 (2010) ("There is no willful failure to pay wages if the employer and employee have a good  
26 faith dispute as to whether and when the wages were due."). Additionally, at the time of mediation,  
27 Courts had held that violations of the meal and rest period regulations, which require payment of a  
28 "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 Bisto, Inc.*, 245 Cal. App. 4th 1242, 1261 (2016) and  
*Maldonado v. Epsilon Plastics, Inc.*, 22 Cal. App. 5th 1308, 1336 (2018). As a result, the viability  
of Plaintiff's claims on these theories was uncertain.

<sup>2</sup> 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 below at ¶ 33.

1     Procedural History of the Litigation

2             7.       On February 3, 2021, Plaintiff served a PAGA Notice on Defendant and the Labor  
3     Workforce Development Agency (“LWDA”), and this PAGA Notice attached to the Complaint  
4     filed in this Action. A true and correct copy of this PAGA Notice is attached hereto as Exhibit #2.

5             8.       On June 23, 2021, Plaintiff filed a Complaint against Defendant in the Superior  
6     Court of the State of California, County of Alameda. Plaintiffs asserted claims that Defendant: (1)  
7     unfair competition in violation of Cal. Bus & Prof. Code §§ 17200, et seq.; (2) failure to pay  
8     minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1; (3) failure to pay  
9     overtime wages in violation of Cal. Labor Code § 510; (4) failure to provide required meal periods  
10    in violation of Cal. Labor Code §§ 226.7 and 512; (5) failure to provide required rest periods in  
11    violation of Cal. Labor Code §§ 226.7 and 512; (6) failure to reimburse employees for required  
12    expenses in violation of California Labor Code § 2802; (7) failure to provide accurate itemized  
13    wage statements in violation of California Labor Code § 226; (8) failure to provide wages at  
14    termination in violation of Cal. Lab. Code § 201, 202, and 203; and, (9) violated the Private  
15    Attorney General Act, Cal. Labor Code §§ 2698, et seq. ("PAGA") based upon these alleged  
16    violations.

17            9.       On September 13, 2021, Defendant filed an Answer to the Class Action Complaint  
18    alleging twenty-six affirmative defenses.

19            10.      Over the course of litigation, the Parties engaged in the investigation of the claims,  
20    including production of documents, class data, and other information, allowing for the full and  
21    complete analysis of liabilities and defenses to the claims in the Action. The information for  
22    mediation obtained by Plaintiffs included: (1) data showing employees and their employment dates;  
23    (2) payroll data for employees; (3) time punch data for the Class; (4) Defendant’s employee wage  
24    and hour policies; (5) the employment file for the Plaintiff; and, (7) samples of wage statements  
25    provided by Defendant. Plaintiff and Defendants agreed to discuss resolution of the Action through  
26    a mediation.

27            11.      Prior to mediation, the Parties engaged in the above investigation and the exchange  
28    of documents and information in connection with the Action. On December 7, 2021, the Parties

1 participated in an all-day mediation presided over by Louis Marlin, Esq., a respected and  
2 experienced mediator of wage and hour class actions. Following the mediation, each side,  
3 represented by its respective counsel, were able to agree to settle the Action based on a mediator's  
4 proposal which was memorialized in the form of a Memorandum of Understanding. At all times,  
5 the negotiations were arm's length and contentious.

6 12. The Parties continued to negotiate the terms of the settlement and prepared the final  
7 Agreement which was signed by the Parties and is now presented to this Court for preliminary  
8 approval. Accordingly, for purposes of this Settlement, the "Class" is defined as "all individuals  
9 who are or previously were employed by Defendant in California who were classified as  
10 non-exempt employees at any time during the Class Period, and who have previously not released  
11 their claims." (Agreement at ¶ I(2).) The Class Period is from June 23, 2017 through April 6, 2022.  
12 (Agreement at ¶ I(10).) The Class consists of an estimated 669 Class Members.

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 deny that, for  
15 any purpose other than settlement, the Action are 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. Plaintiff contend that Defendant violated California wage and  
20 hour laws. Plaintiff further contend that the Actions are appropriate for class certification on the  
21 basis that the claims meet the requisites for class certification. Without admitting that class  
22 certification is proper, Defendant has stipulated that the above Class may be certified for settlement  
23 purposes only. (Agreement at ¶ II(33).) The Parties agree that certification for settlement purposes  
24 is not an admission that class certification would be proper if the class certification issue were  
25 litigated. Further, the Agreement is not admissible in this or any other proceeding as evidence that  
26 the Class could be certified absent a settlement. Solely for purposes of settling the Action, the  
27 Parties stipulate and agree that the requisites for establishing class certification with respect to the  
28 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 is One Million Seven Hundred Thousand Dollars  
14     (\$1,700,000). (Agreement at ¶ I(19).) Under the Settlement, the Gross Settlement Amount consists  
15     of the following elements: (1) payment of the Settlement Shares to the Class; (2) Class Counsel  
16     Fees Payment and Class Counsel Litigation Expenses Payment; (3) Settlement Administration  
17     Expenses; (4) Class Representative Service Payment to the Plaintiff; and (5) the PAGA Payment.  
18     (Agreement at ¶ III(34)-(36).) The Gross Settlement Amount does not include Defendant's share of  
19     payroll taxes. (Agreement at ¶ III(34).) The Gross Settlement Amount shall be all-in with no  
20     reversion to Defendant. (Agreement at ¶ III(34).)

21           16.     Defendant shall fund the Gross Settlement Amount and the amount necessary to pay  
22     Defendant's share of payroll taxes in two installments. (Agreement at ¶ III(34).) Within thirty (30)  
23     days following final approval of the settlement, Defendant shall pay the Settlement Administrator  
24     \$850,000 of the Gross Settlement Amount, and then twelve (12) months following the payment of  
25     the First Installment to the Settlement Administrator, Defendant shall pay the remaining \$850,000  
26     of the Gross Settlement Amount to the Settlement Administrator. (Agreement at ¶ III(34).) The  
27     Settlement Shares to Participating Class Members will be mailed by the Settlement Administrator  
28     upon the receipt of all funds. (Agreement at ¶ III(41).)

1           17.     The Net Settlement Amount shall equal the net amount available for payment to the  
2 Class after deducting the Court-approved amounts for the Class Representative Service Payment,  
3 the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the PAGA Payment,  
4 and the Settlement Administration Expenses. (Agreement at ¶ I(21).) The Net Settlement Amount  
5 will be distributed as the Settlement Shares to the Class Members who do not timely request  
6 exclusion (“Participating Class Members”). (Agreement at ¶¶ I(24) and III(36)(i).) The Settlement  
7 Share will be calculated as follows: (a) the Settlement Administrator shall divide the Net Settlement  
8 Amount by the total number of weeks included in the dates of employment to determine a dollar  
9 amount per week (“Weekly Rate”); and (iii) the Settlement Administrator shall then take the  
10 number of weeks worked by each Participating Class Member and multiply it by the Weekly Rate  
11 to calculate their Settlement Share. (Agreement at ¶ III(36)(j).) Workweeks will be based on  
12 Defendant’s records, however Class Members will have the right to challenge the number of  
13 workweeks.

14           18.     Class Members may choose to opt-out of the Settlement by following the directions  
15 in the Class Notice. (Agreement at ¶ III(38)(c)(iii), Ex. A.) All Class Members who do not "opt  
16 out" will be deemed Participating Class Members who will be bound by the Settlement and will be  
17 entitled to receive a Settlement Share. Aggrieved Employee who opt out the Settlement will still be  
18 paid their allocation of the PAGA Payment, respectively, and will remain bound by the release of  
19 the Released PAGA Claims, regardless of their request for exclusion. (Agreement at ¶  
20 III(38)(c)(iii).) Finally, the Class Notice will also advise the Class Members of their right to object  
21 to the Settlement and/or dispute their workweeks. (Agreement at ¶ III(38)(c), Ex. A)

22           19.     A Participating Class Member must cash his or her Settlement Share check within  
23 180 days after it is mailed. (Agreement at ¶ III(42).) The Settlement Administrator will send a  
24 reminder to Participating Class Members who have not cashed their checks 60 days before the  
25 expiration date. (Agreement at ¶ III(42).) Any settlement checks not cashed within 180 days will  
26 be 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 the Participating Class Member. (Agreement at ¶ III(42).)  
28

1           20.     The Parties have agreed to use ILYM Group as the Settlement Administrator.  
2 (Agreement at ¶ III(37).) From the Gross Settlement Amount, the Settlement Administrator shall be  
3 paid for the expenses of administering the Settlement in an amount not to exceed \$20,000.

4 (Agreement at ¶ III(35)(h).)

5           21.     Subject to Court approval, the Agreement provides for Class Counsel to be awarded  
6 a sum not to exceed thirty percent (30%) of the Gross Settlement Amount, as the Class Counsel  
7 Fees Payment. (Agreement at ¶ III(35)(f).) Class Counsel will also be allowed to apply separately  
8 for an award of Class Counsel Litigation Expenses Payment in an amount not to exceed \$20,000.

9 (Agreement at ¶ III(35)(f).) Subject to Court approval, the Agreement provides for a payment of no  
10 more than \$10,000 to the Plaintiff as the Class Representative Service Payment. (Agreement at ¶  
11 III(35)(e).)

12           22.     The Parties will seek approval from the Court for the PAGA Payment of \$50,000 out  
13 of the Gross Settlement Amount, which shall be allocated 75% (\$37,500) to the LWDA as the  
14 LWDA's share of the PAGA Payment pursuant to PAGA and 25% (\$12,500) will be distributed to  
15 the Aggrieved Employees based on their respective pay periods worked during the PAGA Period.  
16 (Agreement at ¶ III(35)(g).) All Aggrieved Employees will be sent their share of the PAGA  
17 Payment and will be subject to the release of the Released PAGA Claims, whether or not they opt  
18 out of the Settlement. (Agreement at ¶ III(35)(g).) As set forth in the accompany proof of service,  
19 the LWDA is being served with this motion and the Agreement.

20  
21 Risks of Continued Litigation and Standards for Approval

22           23.     Plaintiff and Class Counsel recognize the expense and length of continuing to litigate  
23 and trying these Action against Defendant through possible appeals which could take several years.  
24 Class Counsel has also taken into account the uncertain outcome and risk of litigation, especially in  
25 complex class actions such as these Action. Class Counsel is also mindful of and recognize the  
26 inherent problems of proof under, and alleged defenses to, the claims asserted in the Action. Based  
27 upon their evaluation, Plaintiff and Class Counsel have determined that the Settlement set forth in  
28 the Agreement is in the best interest of the Class Members.

1           24.     Here, a number of defenses asserted by Defendant present serious threats to the  
2 claims of the Plaintiff and the other Class Members. Defendant asserted that Defendant's practices  
3 complied with all applicable Labor laws. Defendant argued that all work time was paid for and that  
4 the rounding practice was lawful. Defendant contend that their meal and rest period policies fully  
5 complied with California law and that Defendant's timekeeping system recorded meal periods, and  
6 was not required to record rest periods. Defendant's records also evidence the payment of missed  
7 meal premiums, and could therefore argue that any meal period violations were compensated.  
8 Finally, Defendant could argue that the Supreme Court decision in *Brinker v. Superior Court*, 53  
9 Cal. 4th 1004 (2012), weakened Plaintiff's claims, on liability, value, and class certifiability as to  
10 the meal and rest period claims. Defendant also argues that based on their facially lawful practices,  
11 they acted in good faith and without willfulness, which if accepted would negate the claims for  
12 waiting time penalties and/or inaccurate wage statements. In fact, under the current state of the law,  
13 it is questionable whether these penalties could be awarded at all based upon the alleged meal and  
14 rest period violations. If successful, Defendant's defenses could eliminate or substantially reduce  
15 any recovery to the Class. While Plaintiff believes that these defenses could be overcome,  
16 Defendant maintains these defenses have merit and therefore present a serious risk to recovery by  
17 the Class.

18           25.     There was also a significant risk that, if the Action was not settled, Plaintiff would be  
19 unable to obtain class certification and thereby not recover on behalf of any employees other than  
20 themselves. Defendant argued that the individual experience of each putative class member varied  
21 with respect to the claims. Defendant could also contest class certification by arguing injury and  
22 good faith were case by case determinations that precluded class certification. Plaintiff is aware of  
23 cases where class certification of similar claims was denied. *See e.g. Cacho v. Eurostar, Inc.*, 43  
24 Cal. App. 5th 885 (2019) (denying certification of meal and rest break claims). Defendant also  
25 contended that individual differences in work experiences not only impacted damages but would  
26 also impact certification. Finally, even if class certification was successful, as demonstrated by the  
27 California Supreme Court decision in *Duran v. U.S. Bank National Assn.*, 59 Cal. 4th 1 (2014),  
28 there are significant hurdles to overcome for a class wide recovery even where the class has been

1 certified. While other cases have approved class certification in wage and hour claims, class  
2 certification in this action would have been hotly disputed and was by no means a foregone  
3 conclusion.

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

7 27. Plaintiff will apply to the Court for Class Representative Service Payment in  
8 consideration for the service and for the risks undertaken on behalf of the class. (Agreement at ¶  
9 III(35)(e).) Plaintiff performed their duty admirably by working with Class Counsel. At this stage,  
10 the requested service award of \$10,000 is well within the accepted range of awards for purposes of  
11 preliminary approval. *See e.g. Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S. Dist. LEXIS 71386  
12 (E.D. Cal. 2018) (awarding \$12,500 where average class member payment was \$351); *Holman v.*  
13 *Experian Info. Solutions, Inc.*, 2014 U.S. Dist. LEXIS 173698 (N.D. Cal. 2014) (approving \$10,000  
14 service award where class member recovery was \$375); *Rausch v. Hartford Fin. Servs. Grp.*, 2007  
15 U.S. Dist. LEXIS 14740, 2007 WL 671334 (D. Or. 2007) (approving award of \$10,000 where class  
16 member recoveries were as little as \$150); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL  
17 4473183, \*7 (S.D. Cal. Oct. 06, 2008) (awarding \$25,000 service award to each of six plaintiffs in  
18 overtime class action); *Glass v. UBS Fin. Servs.*, 2007 WL 221862, \*16-17 (N.D. Cal. Jan. 27 2007)  
19 (awarding \$25,000 service award in overtime class action and a pool of \$100,000.00 in  
20 enhancements ). As explained in *Glass*, service awards are routinely awarded to class  
21 representatives to compensate the employees for the time and effort expended on the case, for the  
22 risk of litigation, for the fear of suing an employer and retaliation there from, and to serve as an  
23 incentive to vindicate the statutory rights of all employees. 2007 WL 221862 at \*16-17.

24 28. The stage of the proceedings at which this Settlement was reached also militates in  
25 favor of preliminary approval and ultimately, final approval of the Settlement. Class Counsel has  
26 conducted a thorough investigation into the facts of the class action. Class Counsel began  
27 investigating the Class Members' claims before the Action was filed. Class Counsel conducted a  
28 review and analysis of the relevant documents and data. Class Counsel was also experienced with

1 the claims at issue here, as Class Counsel previously litigated and settled similar claims in other  
2 actions. Accordingly, the agreement to settle did not occur until Class Counsel possessed sufficient  
3 information to make an informed judgment regarding the likelihood of success on the merits and the  
4 results that could be obtained through further litigation.

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

13  
14 Class Certification Issues

15 30. Plaintiff contends that the proposed settlement meet all of the requirements for class  
16 certification under California Code of Civil Procedure § 382 as demonstrated below, and therefore,  
17 the Court may appropriately approve the Class as defined in the Agreement. This Court should  
18 conditionally certify the Class for settlement purposes only, defined as follows:

19 All individuals who are or previously were employed by Defendant in California  
20 who were classified as non-exempt employees at any time during the Class Period,  
and who have previously not released their claims.

21 (Agreement at ¶ I(3).)

22 The “Class Period” is from June 23, 2017 through April 6, 2022. (Agreement at ¶ I(10).)

23 a. **Numerosity** - Here, Plaintiff asserts that the 669 current and former  
24 employees that comprise the Class can be identified based on Defendant’s records and are  
25 sufficiently numerous for class certification. Defendant verified this figure in the Declaration of  
26 Michelle Bauer, a true and correct copy of which is attached hereto as Exhibit #3.

27 b. **Common Issues Predominate** - Here, Plaintiff contends that common  
28 questions of law and fact are present, and specifically the common questions of whether

1 Defendant's rounding practice was lawful, whether the Defendant failed to provide meal and rest  
2 periods, whether class members were lawfully compensated for all hours worked, whether  
3 Defendant failed to provide required expense reimbursement, and whether Class Members are  
4 entitled to damages and penalties as a result of these practices.

5 c. **Typicality** - In the instant case, Plaintiff contends that there can be little  
6 doubt that the typicality requirement is satisfied. The Plaintiff, like every other member of the  
7 Class, worked for Defendant as non-exempt Care Coordinator during the Class Period. Plaintiff  
8 contends that, like every other member of the Class, he were subject to the same practices and  
9 policies of Defendant and is subject to the same defenses. Thus, Plaintiff asserts that the claims of  
10 the Plaintiff and the Class Members arise from the same course of conduct by the Defendant,  
11 involve the same employment policies and practices of Defendant, and are based on the same legal  
12 theories.

13 d. **Adequacy** - Plaintiff contend that the Class Members are adequately  
14 represented here because Plaintiff and representing counsel (a) do not conflicts of interest with  
15 other class members, and (b) will prosecute the case vigorously on behalf of the class. This  
16 requirement is met here. First, Plaintiff is well aware of his duties as the representative and has  
17 actively participated in the prosecution of this case to date. He effectively communicated with  
18 counsel, provided documents to counsel and participated in the investigation and negotiations in the  
19 Action. Second, Plaintiff retained competent counsel who are experienced in employment class  
20 actions and who have no conflicts. Third, there is no antagonism between the interests of the  
21 Plaintiff and those of the Class. Both the Plaintiff and the Class Members seek monetary relief  
22 under the same set of facts and legal theories.

23 31. Blumenthal Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting  
24 class action lawsuits and can competently represent the Class. Other lawyers at my firm and I have  
25 extensive class litigation experience. We have handled a number of class actions and complex  
26 cases and have acted both as counsel and as lead and co-lead counsel in a variety of these matters.  
27 We have successfully prosecuted and obtained significant recoveries in numerous class action  
28 lawsuits and other lawsuits involving complex issues of law and fact. My firm is particularly

1 experienced in wage and hour employment law class actions, including claims for misclassification,  
2 overtime, expense reimbursement, unlawful deduction of wages, and missed rest and meal periods.  
3 Blumenthal Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over  
4 hundreds of wage and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has  
5 been found to be adequate counsel by the courts throughout California. We have been approved as  
6 experienced class counsel by both state and federal courts in California in contested class  
7 certification proceedings. A true and correct copy of the resume of my firm is attached hereto as  
8 Exhibit #4. I have reviewed my firm's cases and representation of other plaintiffs and there is no  
9 conflict or representation which would prevent my firm from representing the interests of the Class  
10 this case. My firm only represents employees, and not employers. My firm has never represented  
11 Defendant nor any affiliate of the Defendant. My firm's only interest in the subject matter of this  
12 litigation is to ensure a recovery to the Class and to maximize that recovery. can think of no  
13 conflict that would arise in our representation of the Class and our adequate representation of the  
14 Class is evidenced by the successful prosecution of the class claims to reach an excellent recovery  
15 for the Class. Thus, the adequacy requirement is satisfied.

16 32. The Class Notice, drafted jointly and agreed upon by the Parties through their  
17 respective counsel and to be approved by the Court, includes all relevant information. (See Exhibit  
18 "A" to the Agreement.) The Class Notice will include, among other information: (i) information  
19 regarding the Action; (ii) the impact on the rights of the Class Members if they do not opt out; (iii)  
20 information to the Class Members regarding how to opt out and how to object to the Settlement;  
21 (iv) the estimated Settlement Share for each of the Class Members; (iii) the amount of attorneys'  
22 fees and expenses to be sought; (v) the amount of the Plaintiff's service award request; and (vi) the  
23 anticipated expenses of the Settlement Administrator. The Parties agree that the Class Notice will  
24 also include a Spanish translation. The Class Notice will state that the Class Members shall have  
25 forty-five (45) days from the date that the Notice is mailed to them to request exclusion (opt-out) or  
26 to submit an objection. (Agreement at ¶ III(38)(c).) In the event of a re-mailing, this deadline will  
27 be extended by an additional 15 days. Class Members shall be given the opportunity to object to the  
28 Settlement and/or requests for attorneys' fees and expenses and to appear at the Final Approval

1 Hearing. (Agreement at ¶ III(38)(c).) Class Members who do not submit a timely and proper  
2 request to opt-out will automatically receive a payment of their Settlement Share. This notice  
3 program was designed to meaningfully reach the Class Members and it advises them of all pertinent  
4 information concerning the Settlement. The mailing and distribution of the Class Notice satisfies  
5 the requirements of due process, and is the best notice practicable under the circumstances and  
6 constitutes due and sufficient notice to all persons entitled thereto.

7  
8 33. The PAGA Claims -

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

21 b. **Valuation of the PAGA Claim.** For mediation, Plaintiff calculated the  
22 value of the alleged PAGA claim as to Aggrieved Employees for civil penalties to be between  
23 \$551,200 and \$1,102,400 for a single violation in every one of the 11,024 pay periods at issue in the  
24 PAGA Period, depending on whether the violation was \$50 per pay period as in the case of Labor  
25 Code § 558(a)(1) or the standard amount of \$100 per pay period for violation of Labor Code §  
26 1198. This valuation assumed that PAGA civil penalties would be awarded at the maximum rate  
27 per pay period but without stacking. The PAGA allocation in the Settlement is the amount of  
28 \$50,000. This allocation is justified by several important considerations. First, the PAGA claim

1 was subject to the same risks as the underlying class claims. Second, Defendant asserted additional  
2 defenses to the PAGA claim, not only as to liability but also as to the amount of the penalties.  
3 Defendant could also argue that no penalties prior to the PAGA notification should be awarded, and  
4 I am aware of one Court which has so ruled. These additional defenses present a risk to the PAGA  
5 claim and the potential that some or all of the PAGA penalties sought may not be awarded. Third,  
6 civil penalties may not be awarded at the maximum rate. In *Carrington v. Starbucks Corp.*, 30 Cal.  
7 App. 5th 504 (2018), the court affirmed a judgment which only provided for a PAGA penalty of \$5  
8 per violation. Therefore, at trial, any PAGA penalties awarded could be significantly less than  
9 Plaintiffs' calculation even where Plaintiffs prevailed on the PAGA claim. Even if we assume that  
10 violations for all 11,024 pay periods were established, using the valuation from *Carrington* results  
11 in a more realistic recovery of \$55,120 under PAGA. This means that the \$50,000 PAGA  
12 allocation is a reasonable percentage of this potential PAGA recovery. Fourth, the interests of  
13 PAGA are also served by the Class recovery under the reasoning of the LWDA in *O'Connor v.*  
14 *Uber*.

15           c.       **Similar PAGA Settlements.** In reaching the settlement of the PAGA claim,  
16 Class Counsel was also aware of what allocations other Courts have approved for similar PAGA  
17 settlements as compared to the total settlement amount. A class settlement that allocates  
18 approximately 2.9% of the total settlement value to resolve the PAGA claims applicable to the class  
19 is also supported by what has been approved in other wage-and-hour class settlements. Indeed,  
20 Courts typically approve PAGA settlement amounts in the range of between .27 to 1.7 percent of  
21 the total settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015)  
22 (PAGA Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated*  
23 *Logistics, Inc.*, 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for  
24 PAGA on a \$1.5 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637  
25 (N.D. Cal. 2015) (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs,*  
26 *Inc.*, 2014 U.S. Dist Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA  
27 for PAGA out of \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL  
28 672645, \*1 (N.D. Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9

1 million common-fund settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, \*13  
2 (E.D. Cal. 2012) (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million  
3 common-fund settlement); *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, \*9 (N.D. Cal. 2009)  
4 (approving PAGA allocation that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon*  
5 *Trucking, Inc.*, 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement  
6 of \$3,700,000, with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*,  
7 CV 10-02420 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount  
8 of \$8.25 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay*,  
9 8:10-cv-00112-DOC (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000  
10 allocated to PAGA); *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted  
11 as PAGA penalties or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive*  
12 *Educational Services Inc.*, Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000  
13 allotted as PAGA penalties or 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell*  
14 *Banker Residential Brokerage Company*, Los Angeles Superior Court Case No. BC495767 (2016)  
15 (\$10,000 allotted as PAGA penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los*  
16 *Robles Medical Center*, No. 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or  
17 0.40% of \$3,775,000 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441  
18 (E.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount);  
19 *Nehrlich v. RPM Mortgage Inc.*, Orange County Superior Court Case No.  
20 30-2013-00666783-CU-OE-CXC (2017) (\$10,000 allotted as PAGA penalties or 0.40% of  
21 \$2,500,000 settlement amount); *Rubio v. KTI Incorporated*, San Bernardino Superior Court Case  
22 No. CIVDS-14-06132 (2015) (\$1,000 allotted as PAGA penalties or 0.18% of \$550,000 settlement  
23 amount); *Gray v. Mountain View Child Care Inc.*, San Bernardino Superior Court Case No.  
24 CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA penalties or 0.37% of \$675,000 settlement  
25 amount); *Perez v. West Coast Liquidators Inc. d/b/a Big Lots*, San Bernardino Superior Court Case  
26 No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA penalties or 0.33% of \$900,000 settlement  
27 amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles Superior Court No. BC471369 (2013)  
28 (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000 settlement amount); *Mejia v. DHL*

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

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

1 and hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange  
2 County Superior Court Case No. JCCP 4957) Judge William Claster awarded Class Counsel a one-  
3 third award in a wage and hour class settlement. On February 11, 2020, in *Singh v. Total Renal*  
4 *Care* (San Francisco Superior Court Case No. CGC-16-550847) Judge Ethan Schulman awarded  
5 Class Counsel a one-third award in a wage and hour class settlement. On October 23, 2020, in  
6 *Ontiveros v. Baker Concrete*, (Santa Clara Superior Court Case No. 18CV328679) Judge Brian  
7 Walsh awarded Class Counsel a one-third fee award in a wage and hour class settlement. On  
8 December 3, 2020, in *Blackshear v. California Fine Wine & Spirits* (Sacramento Superior Court  
9 Case No. 34-2018-00245842) Judge Christopher Krueger awarded BNBD a one-third fee award in a  
10 wage and hour class settlement. On April 15, 2021, in *Epstein v. Walgreens* (U.S.D.C. Central  
11 District of California, Case No. 5:19-cv-01323) District Judge David Carter awarded Class Counsel  
12 a one-third fee award in a wage and hour class settlement. On June 2, 2021, in *Pacia v. CIM*  
13 *Group, L.P.* (Los Angeles Superior Court Case No. BC709666), Judge Amy D. Hogue awarded  
14 Class Counsel a one-third fee award in a wage and hour class settlement. On September 24, 2021, in  
15 *Prologistics Wage and Hour Cases* (Los Angeles Superior Court Case No. JCCP 4881), Judge  
16 William Claster awarded Class Counsel a one-third fee award in a wage and hour class settlement.  
17 A fee award equal to one-third of the common fund is therefore reasonable in light of the fees that  
18 have been awarded in other similar cases.

19  
20 35. Class Representative Service Payments - The reasonableness of the requested service  
21 award is also established by reference to the amounts that other California courts have found to be  
22 reasonable in wage and hour class action settlements: *Zamora v. Balboa Life & Casualty, LLC*,  
23 Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding \$25,000 service  
24 award); *Aguilar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP (AJWx)(C.D. Cal. Mar. 17,  
25 2011)(awarding \$14,767 service award); *Magee v. American Residential Services, LLC*, Case No.  
26 BC423798, Los Angeles County Superior Court (Apr. 21, 2011)(awarding \$15,000 service award);  
27 *Mares v. BFS Retail & Commercial Operations, LLC*, Case No. BC375967, Los Angeles County  
28 Superior Court (June 24, 2010)(awarding \$15,000 service award); *Baker v. L.A. Fitness Int'l, LLC*,

1 Case No. BC438654, L.A. County Superior Court (Dec. 12, 2012)(awarding \$10,000 service  
2 awards to three named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*, Case No.  
3 BC417335, Los Angeles County Superior Court (Mar. 21, 2011)(awarding \$10,000 service award);  
4 *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795, Los Angeles County Superior Court (June,  
5 11, 2010)(awarding \$10,000 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No.  
6 BC429042, Los Angeles County Superior Court (Oct. 3, 2013)(awarding \$10,000 service award);  
7 *Ethridge v. Universal Health Services, Inc.*, Case No. BC391958, Los Angeles County Superior  
8 Court (May 27, 2011)(awarding \$10,000 service award); *Hickson v. South Coast Auto Ins.*  
9 *Marketing, Inc.*, Case No. BC390395, Los Angeles County Superior Court (Mar. 27,  
10 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*, Case No. BC422934, Los  
11 Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service award); *Kambamba v.*  
12 *Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County Superior Court, (Aug. 19,  
13 2011)(awarding \$10,000 service award together with additional compensation for their general  
14 release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los Angeles County Superior Court  
15 (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose Hills Mortuary, L.P.*, Case No.  
16 BC386500, Los Angeles County Superior Court, (Mar. 19, 2010)(awarding \$10,000 service award);  
17 *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No. BC440282, Los Angeles County Superior  
18 Court (Feb. 22, 2013)(awarding \$10,000 service award); *Silva v. Catholic Mortuary Services, Inc.*,  
19 Case No. BC408054, Los Angeles County Superior Court (Feb. 8, 2011)(awarding \$10,000  
20 enhancement award); *Weisbarth v. Banc West Investment Services, Inc.*, Case No. BC422202, Los  
21 Angeles County Superior Court (May 24, 2013)(awarding \$10,000 service award); *Lazar v. Kaiser*  
22 *Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara County Superior Court (Dec. 28,  
23 2015) (awarding \$10,000 service award); *Acheson v. Express, LLC*, Case No. 109CV135335, Santa  
24 Clara County Superior Court (Sept. 13, 2011)(awarding \$10,000 service award); *Bejarano v.*  
25 *Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL (Opx)(C.D. Cal. June 22,  
26 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS  
27 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award);  
28 *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding

1 \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside  
2 County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security*  
3 *Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000  
4 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange  
5 County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security*  
6 *Services, LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23,  
7 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior  
8 Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The*  
9 *Inductrial Complany*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug.  
10 1, 2018) (awarding \$10,000 service award).

11  
12 36. Settlement Administration - The estimate from ILYM Group was selected, as it  
13 provided for an estimate of \$15,990 to perform the settlement administration. A true and correct  
14 copy of the estimate from ILYM Group is attached hereto as Exhibit #5. I have used ILYM Group  
15 successfully as the administrator in more than twenty class settlements in the last several years and  
16 know them to be competent and experienced.

17  
18 I declare under penalty of perjury under the laws of the State of California that the foregoing  
19 is true and correct. Executed this 26th day of May, 2022, at La Jolla, California.

20  
21  
22 By: /s/ KyleNordrehaug  
23 Kyle Nordrehaug  
24  
25  
26  
27  
28



## CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”) is made by and between plaintiff Raymond Huerta (“Plaintiff”) and defendant Splay, Inc. (“Defendant”). Plaintiff 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 class and representative PAGA action complaint that was filed in California state court, which is captioned *Huerta v. Splay Inc.*, Case No. RG21102661 and is pending in Superior Court of the State of California, County of Alameda.
2. “Aggrieved Employees” means all individuals who are or previously were employed by Defendant in California who were classified as non-exempt employees at any time during the PAGA Period, and who have previously not released their claims.
3. “Class” means all individuals who are or previously were employed by Defendant in California who were classified as non-exempt employees at any time during the Class Period, and who have previously not released their claims.
4. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP.
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 name; last-known mailing address; Social Security number; his or her employee identification number; ; and his or her dates of employment and/or weeks worked during the Class Period as a Class Member and pay periods worked during the PAGA Period.
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) along with a Spanish translation of the Class Notice.
10. “Class Period” means the period of time from June 23, 2017 through the earlier of preliminary approval or April 6, 2022.
11. “Class Representative Service Payment” means the service payment made to Plaintiff in his capacity as Class Representative in order to compensate him for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses in the event Plaintiff was unsuccessful in the prosecution of the Action, and for the general release of all claims by the Plaintiff.
12. “Court” means the Superior Court of California, County of Alameda.
13. “Defendant” means Splay, Inc.
14. “Defendant’s Counsel” means Cathy L. Arias of Cathy Arias Law.
15. “Effective Date” means the date by which all of the following have occurred:
  1. This Agreement is finally approved by the Court; and
  2. The Judgment becomes Final as defined in Section I(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: (i) sixty (60) calendar days after the Court enters the Judgment; (ii) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial or otherwise, the day after the last date for filing a request for further review of the Court of Appeal’s decision passes, and no further review is requested; (iii) if an appeal is filed and there is a final disposition by ruling, dismissal, denial, or otherwise by the Court of Appeal, and further review of the Court of Appeal’s decision is requested, the day after the request for review is denied with prejudice and/or no further review of the judgment can be requested, or (iv) if review is accepted, the day the California Supreme Court affirms the Settlement.
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 Seven Hundred Thousand Dollars (\$1,700,000) 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, Settlement Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, 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. In no event will Defendant be liable for more than the Gross Settlement Amount except as otherwise explicitly set forth herein.

20. “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.
21. “Net Settlement Amount” means the Gross Settlement Amount less the Court-approved amounts for the Class Representative Service Payment, the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the PAGA Payment, and the Settlement Administration Expenses.
22. “Non-Participating Class Member” means a Class Member who submits a valid and timely Election Not to Participate in Settlement.
23. “PAGA Period” means the period of time from June 23, 2020 through April 6, 2022.
24. “Participating Class Member” means a Class Member who does not submit a valid and timely Election Not to Participate in Settlement.
25. “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.
26. “Released Parties” collectively mean: Defendant, Defendant’s respective past, present and future parents, subsidiaries, corporations, divisions, and successors and assigns, and the past, present and future shareholders, managers, officers, partners, members, directors, agents, employees, attorneys, insurers, predecessors, successors and assigns of Defendant, including MOS Plastics, Inc. and Kennerley Spratling, Inc.
27. “Settlement” means the disposition of the Action and all related claims effectuated by this Agreement.
28. “Settlement Administrator” means the third party settlement administrator proposed by the Parties, as approved by the Court.
29. “Settlement Share” means each Participating Class Member’s share of the Net Settlement Amount as provided by this Agreement.

## II. RECITALS

30. On June 23, 2021, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of Alameda. Plaintiff asserted claims that Defendant:
  - a. Violated California Business and Professions Code § 17200 *et seq.*;
  - b. Failed to pay all wages due, including minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1 and sick pay;
  - 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 reimburse employees for required expenses in violation of California Labor Code § 2802.
  - g. Failed to provide accurate itemized wage statements in violation of California Labor Code § 226; and,
  - h. Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203; and,
  - i. Violated the Private Attorney General Act, Cal. Labor Code §§ 2698, *et seq.* (“PAGA”).
31. On September 13, 2021, Defendant filed an Answer to the Class Action Complaint alleging twenty-six affirmative defenses.
32. On December 7, 2021, the Parties participated in an all-day mediation presided over by Louis Marlin, a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based upon a mediator’s proposal which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties
33. 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 Plaintiff or the Class have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendant’s defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become

effective, 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

#### 34. **Gross Settlement Amount.**

- a. Subject to the terms and conditions of this Agreement, the Gross Settlement Amount that Defendant will pay under this Settlement is One Million Seven Hundred Thousand Dollars (\$1,700,000). 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.
- b. **First Installment.** Within thirty (30) days following final approval of the settlement, Defendant shall pay the Settlement Administrator \$850,000 of the Gross Settlement Amount. However, the settlement monies shall not be distributed until the Effective Date of the settlement.
- c. **Second Installment.** Within twelve (12) months following the payment of the First Installment to the Settlement Administrator, Defendant shall pay the remaining \$850,000 of the Gross Settlement Amount to the Settlement Administrator.
- d. **Default.** In the event Defendant defaults on any of the payments set forth above, after being given notice by Class Counsel and an opportunity to cure within fourteen (14) days, Defendant agrees that all payments still due and owing on the Payments in the total amount of \$1,700,000, less any payments received, shall be accelerated and due immediately.

#### 35. **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:

- e. **To Plaintiff:** In addition to the Settlement Shares to be paid to Plaintiff, Plaintiff will apply to the Court for an award of not more than \$10,000 as a Class Representative Service Payment. Defendant will not oppose a Class Representative Service Payment of no more than \$10,000 to Plaintiff. The Settlement Administrator will pay the Class Representative Service Payment approved by the Court out of the Gross Settlement Amount. If the Court approves a Class Representative Service Payment of less than \$10,000, 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 Payment and instead a Form 1099 will be issued to Plaintiff with respect to the payment who will assume full responsibility and liability for the taxes due on his Class Representative Service Payment.

- f. **To Class Counsel:** Class Counsel will apply to the Court for an award of not more than thirty percent (30%) of the Gross Settlement Amount, which is presently \$510,000, as their Class Counsel Fees Payment and an amount not more than \$20,000 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 \$510,000, and \$20,000 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 and Class Counsel Litigation Expenses Payment shall be made to Class Counsel.
- g. **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 based on their respective pay periods worked 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 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. One hundred percent (100%) of the PAGA Payment is in settlement of claims for penalties and not be subject to wage withholdings, and shall be reported on IRS Form 1099.
- h. **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 \$20,000 ("Settlement Administration Expenses"). To the extent the Settlement Administration Expenses that are documented and approved by the Court are less than \$20,000, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members.

36. **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:
- i. **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 to be paid.
  - j. **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 included in the dates of employment to determine a dollar amount per week (“Weekly Rate”); and (iii) the Settlement Administrator shall then take the number of weeks worked by each Participating Class Member and multiply it by the Weekly Rate to calculate their Settlement Share.
  - k. **Withholding.**
    - i. Subject to approval by the Court, One-Third 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 Net 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, Two-Thirds of each Participating Class Member’s Settlement Share is in settlement of claims for expense reimbursement, interest and penalties allegedly due to employees (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings, and shall be reported on IRS Form 1099.
  - l. **Effect of Non-Participating Class Members.** Non-Participating Class Members will receive no Settlement Share, and their Election Not to Participate in Settlement will reduce neither the Gross Settlement Amount nor 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.
  - m. **Class Size Modification.** Defendant has represented that the class consists of an estimated total of 637 Class Members who worked 67,993

weekly pay periods during the Class Period. In regard hereto, Defendant will provide a declaration under oath prior to the filing of the motion for preliminary approval as to the number of Class Members during the Class Period. Should the number of pay periods in the Class Period increase by more than 10%, Defendant will have the option to increase the Gross Settlement Amount by a proportionate additional amount for each additional pay period or, if Defendant declines to exercise this option, the Gross Settlement Amount will cover no more than 10% more than 67,993 workweeks (75,000 workweeks), the number of pay periods disclosed in advance of the mediation, and the Release date will be moved back to only cover the Class and PAGA Periods during which no more than 75,000 weekly pay periods were worked by the Class Members.

37. **Appointment of Settlement Administrator.** After obtaining a quote from mutually acceptable and qualified settlement administrator, the Parties have mutually agreed to ask the Court to appoint ILYM Group 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; preparing the Spanish translation of the Class Notice; 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 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. The Settlement Administrator will have the authority to resolve all disputes concerning the calculation of a Participating Class Member's Settlement Share, subject to the dollar limitations and calculations set forth in this Agreement. 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.

38. **Procedure for Approving Settlement.**

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

- i. After Execution of this Settlement Agreement, Plaintiff 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”) within thirty (30) days. 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.
  - 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 14 days after the Court enters an Order Granting Preliminary Approval of the Settlement, Defendant will provide to the Settlement Administrator an electronic database containing each Class Member’s 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. This information will otherwise remain confidential and will not be disclosed to anyone, except as required to applicable taxing authorities, in order to carry out the reasonable efforts described herein, 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 by Class Counsel. 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 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, and any email containing the re-mailed Class Notice, shall include a Spanish translation. The envelope of the Class Notice Packet shall include an advisory about the content in both English and Spanish.
- iii. If a Class Notice Packet is returned because of an incorrect address, the Settlement Administrator will 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 also email a copy of the re-mailed Class Notice to the Class Member if there is an available email address in the Class Data. 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 email addresses, phone numbers, 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 days, 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), and number of objections received.

- v. Not later than 10 days before the date by which the Plaintiff files 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) 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 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 Payment 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. Written objections must set forth the grounds for the objection(s) and comply with the instructions in the Class Notice, however a written objection shall not be invalid simply because it does not contain all of the information requested. If a Class Notice Packet is re-mailed, the response date for written objections will be extended an additional 15 days. Alternatively, 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 Payment. 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 sixty (60) calendar days after the Settlement Administrator mails the Class Notice Packets in which to dispute the dates of employment the Class Notice allocates to them during the Class Period. Any notice of dispute shall be directed to the Settlement Administrator. Any dispute as to this allocation shall be resolved by the Settlement Administrator, with input and assistance from

Defendant's Counsel, where applicable. If a Class Notice Packet is re-mailed, the response date for disputes will be extended an additional 15 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 postmarked not later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets, a signed Election Not to Participate in Settlement. If a Class Notice Packet is re-mailed, the response date for opt-outs will be extended an additional 15 days. To be valid, an Election Not to Participate in Settlement must be timely and should comply with the instructions in the Class Notice, however an Election Not to Participate in Settlement shall not be invalid simply because it does not contain all of the information requested. 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 allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of their request for exclusion. 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. Neither Party nor their Counsel shall encourage any Class Member to elect not to participate in the Settlement.

- 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 twenty (20) or more Class Members, 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) days of the deadline for submission of 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 Payment no later than the date Plaintiff files 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 Plaintiff will file with the Court a motion for final approval of the Settlement, the PAGA Payment, and payment of the Settlement Administration Expenses.
  - 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 Payment, 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 Plaintiff 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 Plaintiff and Class Counsel for the PAGA Payment, Class Representative Service Payment, 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.

39. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, Plaintiff 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.

40. **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 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 Payment 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.

41. **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 as set forth in paragraph 34 of this Agreement and the amount necessary to pay Defendant's share of payroll taxes. Upon the Effective Date and receipt of funds as set forth in paragraph 34 of this agreement, 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 Payment and the PAGA Payment in accordance with paragraphs 35 and 36 of this Agreement and the terms of this paragraph 38.
42. **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 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 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 email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 120 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 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 60 day period after this notice, 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 or Aggrieved Employees, whether or not they all cash their Settlement Share checks.
43. **Final Report by Settlement Administrator to Court.** Within ten 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.

44. **Release of Claims.**

- a. **Participating Class Members.** Upon the Effective Date and upon full funding of the Gross Settlement Amount, Defendant shall receive a release from the Participating Class Members of all class claims that were pled in the operative complaint in the Action or could have been plead based on the factual allegations contained in the operative complaint in the Action that occurred during the Class Period, which includes the following claims based upon the facts alleged in the operative complaint in the Action that occurred during the Class Period: (i) all claims for unpaid overtime; (ii) all claims for meal and rest break violations; (iii) all claims for unpaid wages, including minimum wages; (iv) all claims for failure to timely pay wages upon termination; (v) all claims for the failure to reimburse necessary business expenses; (vi) all claims for failure to timely pay wages during employment; (vii) all claims for wage statement violations; (viii) all claims asserted through California Business & Professions Code sections 17200, et seq., and expressly excluding all other claims, including claims for wrongful termination, vested benefits, unemployment insurance, disability, social security, and workers' compensation, and claims outside of the Class Period ("Released Class Claims").
- b. **Aggrieved Employees.** Upon the Effective Date and upon full funding of the Gross Settlement Amount, Defendant shall receive a release from the State of California of all PAGA claims that were pled in the operative complaint in the Action, in the notice letter to the LWDA, or could have been plead based on the factual allegations contained in the operative complaint in the Action and/or in the LWDA Notice submitted by Plaintiff which occurred during the PAGA Period ("Released PAGA Claims"). Release PAGA Claims include PAGA claims predicated on alleged violations of Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating). The Released PAGA Claims may be released against all Released Parties. The Released PAGA Claims exclude any PAGA claims outside the PAGA Period. The release of the Released PAGA Claims shall be effective regardless of whether an Aggrieved Employee submitted a request for an exclusion from the Class. The Released PAGA Claims do not include all other claims, including claims for wrongful termination, vested benefits, social security, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.
- c. **Plaintiff.** Upon the Effective Date and upon full funding of the Gross Settlement Amount, Plaintiff generally releases and discharges the Released Parties from any and all claims, known or unknown, asserted and unasserted, which Plaintiff has or may have against the Released Parties as of the dated of execution of this Settlement Agreement ("Plaintiff's

Released Claims”). This release of Plaintiff’s Released Claims releases the Released Parties from any claim that Plaintiff could maintain in any action against any Released Party.. 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..

Plaintiff acknowledges that he may discover facts or law different from, or in addition to the facts or law that he knows or believes 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. **Plaintiff’s Waiver of Rights Under California Civil Code Section 1542.** As partial consideration for the Class Representative Service Payment, the Plaintiff’s Released Claims shall include all such claims, whether known or unknown by the releasing party. Thus, even if Plaintiff discovers facts and/or claims in addition to or different from those that he now knows or believes to be true with respect to the subject matter of the Plaintiff’s Released Claims, those claims will remain released and forever barred. Therefore, with respect to Plaintiff’s Released Claims, Plaintiff expressly waives and relinquishes 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.** Upon the Effective Date and upon full funding of 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.
45. **No Effect on Other Benefits.** The Settlement Shares will not result in any additional benefit payments (such as 401(k) or bonus) beyond those provided by this Agreement to Plaintiff or Participating Class Members, and Plaintiff and Participating Class Members 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.

46. **Limitation on Public Statements About Settlement.** Neither Class Counsel nor Defendant's Counsel shall publicize the Settlement prior to the Court granting preliminary approval, other than filing documents with the Court. Plaintiff and Class Counsel and Defendant and Defendant's Counsel agree that they will not issue any press releases or initiate any contact with the media about the fact, amount, or terms of the Settlement. If Plaintiff or Class Counsel or Defendant or Defendant's Counsel receives an inquiry about the Settlement from the media, they may respond only after the Motion for Preliminary Approval has been filed and only by confirming the accurate terms of 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 Plaintiff from making any required disclosures.

#### **IV. MISCELLANEOUS TERMS**

47. **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 Plaintiff that any of the claims were non-meritorious or any defense asserted by Defendant was meritorious. This Settlement and the fact that Plaintiff 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 Plaintiff, Class Members, or any other person, and Defendant specifically disclaim any such liability or wrongdoing. Moreover, it 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 Plaintiff that Plaintiff's 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 Plaintiff 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.
- 48. **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.
- 49. **Attorney Authorization.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by Plaintiff 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.
- 50. **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.
- 51. **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.

52. **Modification of Agreement.** Except as set forth in section 49 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.
53. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
54. **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.
55. **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.
56. **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, taking into account all relevant factors, current and potential.
57. **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 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.
58. **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.
59. **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 Plaintiff 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  
E-Mail: [norm@bamlawca.com](mailto:norm@bamlawca.com)  
[kyle@bamlawca.com](mailto:kyle@bamlawca.com)

*To Defendant:*

Cathy L. Arias  
Cathy Arias Law  
1600 South Main Street, Ste. 325  
Walnut Creek, CA 94596  
Tel.: (925) 412-3529  
Email: [cathy@cathyariaslaw.com](mailto:cathy@cathyariaslaw.com)

60. **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.
61. **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 mediation with the Louis Marlin on December 7, 2021 until the earlier of the Effective Date or the date this Agreement in no longer of any force or effect.
62. **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.

**V. EXECUTION BY PARTIES AND COUNSEL**

The Parties and their counsel hereby execute this Agreement.

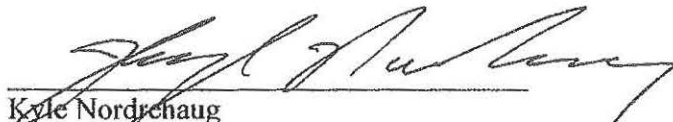
Dated: Mar 19, 2022

~~Plaintiff Raymond Huerta~~  
Plaintiff Raymond Huerta

Dated: 3/21/2022

William Rowz [name]  
For Defendant Splay Inc.

Dated: 3/21/22

  
\_\_\_\_\_  
Kyle Nordrehaug  
Blumenthal Nordrehaug Bhowmik De Blouw LLP  
Attorney for Plaintiff

Dated: 3/22/22

*Catherine Arias*  
\_\_\_\_\_  
Cathy L. Arias  
Cathy Arias Law  
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 ACTION  
AND HEARING DATE FOR FINAL COURT APPROVAL**

**(Huerta v. Splay Inc., Superior Court of the State of California,  
County of Alameda, Case No. RG21102661)**

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

| <b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Do Nothing and Receive a Payment</b>                             | <p>To receive a cash payment from the Settlement, you do <b>not</b> have to do anything.</p> <p><b>Your estimated Settlement Share is: \$&lt;&lt;__&gt;&gt;. See the explanation in Section 5 below.</b></p> <p>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 by the Court, the payment will be mailed to you at the same address as this notice. In exchange for the Settlement Share payment, you will be considered a Participating Class Member and 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.</p> |
| <b>Exclude Yourself</b>                                             | <p>To exclude yourself, you must send a written request for exclusion to the Settlement Administrator as provided below. <b>If you request exclusion, you will receive no money from the Settlement and you will not be bound by the Settlement.</b> However, if you are an Aggrieved Employee who opts out, you will still be paid your allocation of the PAGA Payment and the Labor Workforce Development Agency will remain subject to the release of the Released PAGA Claims regardless of whether you submit a request for exclusion.</p> <p>If you choose to do so, you must notify the Settlement Administrator as explained in Section 7 below.</p>                                                                                                  |
| <b>Object</b>                                                       | <p>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.</p> <p>Instructions are provided in Section 8 below.</p> <p>The Court will hold a Final Approval Hearing at _____ on _____, at the Alameda County Superior Court, Dept ____.</p> <p>This hearing may change as explained below in Section 9.</p>                                                                                                                                                                                                                                                                                                                                                                      |

Your options are further explained in this Class Notice. To exclude yourself from, or object to, the settlement you must take action by certain deadlines. If you want 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.

**1. Why did I get this Notice?**

A proposed class action settlement (the “Settlement”) of the above-captioned action pending in the Superior Court of the State of California, in and for the County of Alameda (the “Court”) has been reached between Plaintiff Raymond Huerta (“Plaintiff”) and Defendant Splay, Inc. (“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 are or previously were employed by Defendant in California who were classified as non-exempt employees at any time during the Class Period, and who have previously not released their claims.

The Class Period is June 23, 2017 through April 6, 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.

## **2. What is this class action lawsuit about?**

On June 23, 2021, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of Alameda (the “Complaint”), alleging the following claims against Defendant: unfair competition, failure to pay minimum wages, failure to pay overtime wages, failure to provide required meal periods, failure to provide required rest periods, failure to provide expense reimbursement, failure to provide accurate itemized wage statements, failure to timely pay wages at termination, and violation of the Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) (“PAGA”) based upon the above alleged violations. On September 13, 2021, Defendant filed an Answer asserting twenty-six affirmative defenses. This lawsuit is referred to as the “Action”.

Defendant denies and disputes all such claims. Specifically, Defendant contends that Plaintiff and the Class Members were properly compensated for wages under California law; that Plaintiff and the Class Members were provided with meal and rest periods in compliance with California law; that Defendant did not fail to pay to Plaintiff or any Class Members any required expense reimbursement; that Defendant complied with California wage statement requirements; that Defendant is not liable for any of the penalties claimed or that could be claimed in the Action; and that this Action cannot be maintained as a class action.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firm 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 Seven Hundred Thousand Dollars (\$1,700,000) (the “Gross Settlement Amount”) to fund the settlement of this Action. The Gross Settlement Amount includes all payments of Settlement Shares to Class Members contemplated by the Settlement, the Settlement Administration

Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, 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.

The Gross Settlement Amount will be paid by Defendant in two installments. Within thirty (30) days following final approval of the settlement, Defendant shall pay the Settlement Administrator \$850,000 of the Gross Settlement Amount. Within twelve (12) months following the payment of the First Installment to the Settlement Administrator, Defendant shall pay the remaining \$850,000 of the Gross Settlement Amount to the Settlement Administrator. 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 \$20,000, 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 thirty percent (30%) of the Gross Settlement Amount, which is presently \$510,000 and an additional amount to reimburse actual litigation costs incurred by the Plaintiff not to exceed \$20,000. Class Counsel has been prosecuting the Action on behalf of Plaintiff 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 Payment. A Class Representative Service Payment in an amount not to exceed Ten Thousand Dollars (\$10,000.00) to the Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook. The amount stated is what Plaintiff 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 based on their respective pay periods during the PAGA Period (June 23, 2020 through April 6, 2022). “Aggrieved Employees” means all individuals who are or previously were employed by Defendant in California who were classified as non-exempt employees at any time during the PAGA Period, and who have previously not released their claims. All Aggrieved Employees will be sent their share of the PAGA Payment and the Labor Workforce Development Agency will be subject to the release of the Released PAGA Claims as set

forth below, whether or not an Aggrieved Employee opt outs of the class portion 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 Payment, 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 included in the dates of employment to determine a dollar amount per week (“Weekly Rate”); and (b) the Settlement Administrator shall then take the number of weeks worked by each Participating Class Member 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. One-Third (1/3) 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. Two-Thirds of each Participating Class Member’s Settlement Share is in settlement of claims for expense reimbursement, interest and penalties allegedly due to employees (collectively 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 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 entering an order 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 upon full funding of the Gross Settlement Amount, Defendant shall receive a release from the Participating Class Members of all class claims that were pled in the operative complaint in the Action or could have been plead based on the factual allegations contained in the operative complaint in the Action that occurred during the Class Period, which includes the following claims based upon the facts alleged in the operative complaint in the Action that occurred during the Class Period: (i) all claims for unpaid overtime; (ii) all claims for meal and rest break violations; (iii) all claims for unpaid wages, including minimum wages; (iv) all claims for failure to timely pay wages upon termination; (v) all claims for the failure to reimburse necessary business expenses; (vi) all claims for failure to timely pay

wages during employment; (vii) all claims for wage statement violations; (viii) all claims asserted through California Business & Professions Code sections 17200, et seq., and expressly excluding all other claims, including claims for wrongful termination, vested benefits, unemployment insurance, disability, social security, and workers' compensation, and claims outside of 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 any other Released Party about Released Class Claims resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

**Released PAGA Claims.** Upon the Effective Date and upon full funding of the Gross Settlement Amount, Defendant shall receive a release from the State of California of all PAGA claims that were pled in the operative complaint in the Action, in the notice letter to the LWDA, or could have been pled based on the factual allegations contained in the operative complaint in the Action and/or in the LWDA Notice submitted by Plaintiff which occurred during the PAGA Period ("Released PAGA Claims"). Release PAGA Claims include PAGA claims predicated on alleged violations of Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and California Code of Regulations, Title 8, Section 1070(14) (Failure to Provide Seating). Even if you timely exclude yourself from the Settlement of the Released Class Claims, as described above, if you are an Aggrieved Employee you will still receive an allocation of the PAGA Payment and the Labor Workforce Development Agency will remain bound by the release of the PAGA Released Claims regardless of your request for exclusion from the class portion of the Settlement.

#### **5. How much will my payment be?**

**The Weekly Rate is estimated to be <<\$\_\_\_\_\_>>. Defendant's records reflect that you have worked <<\_\_\_\_\_>> weeks for Defendant during the Class Period (June 23, 2017 through April 6, 2022).**

**Based on this information, your estimated Settlement Share from the Net Settlement Amount is <<\_\_\_\_\_>>.**

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 \_\_\_\_\_ [sixty (60) days after the mailing of the Class Notice or 75 days after the Notice in the case of re-mailing].

#### **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 : \_\_\_\_\_ or (800) \_\_\_\_\_.

The Court will hold a Final Approval Hearing on \_\_\_\_\_, at \_\_\_\_\_ 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 award to the Plaintiff. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately thirteen (13) months after this hearing. If there are objections or appeals, resolving them can take more 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 Released Class Claims.** However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Payment and the Labor Workforce Development Agency will remain bound by the release of the Released PAGA Claims. The PAGA Payment is \$50,000, of which \$12,500 will be distributed to the Aggrieved Employees to be allocated based on their respective pay periods worked during the "PAGA Period", which is June 23, 2020 through April 6, 2022.

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 \_\_\_\_\_ [forty-five (45) days after the date of the Notice or 60 days after the Notice in the case of re-mailing]. The request to opt-out must be received by the Settlement Administrator by the deadline and should: (1) contain a clear statement that you are requesting to opt out of, or be excluded from the Class and Released Class Claims in the *Huerta v. Splay Inc.* lawsuit; (2) contain the name, address, and the last four digits of the Social Security Number of the person requesting exclusion; (3) state the Class Member's request to exclude himself or herself from the Settlement and to opt out of the Settlement; and (4) be signed by the Class Member or his or her lawful representative. Please include the name and number of the case, which is *Huerta v. Splay Inc.*, Case No. RG21102661. 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 \_\_\_\_\_. Written requests for exclusion that are postmarked after \_\_\_\_\_, 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, except that an Aggrieved Employee will still be paid their allocation of the PAGA Payment and the Labor Workforce Development Agency will remain bound by the release of the PAGA Released Claims regardless of any request for exclusion.

#### **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 should state the Class Member's name, current address, telephone number, and the dates of employment in California by Defendant, and describe why you believe the Settlement is unfair. All written objections or other correspondence should also state the name and number of the case, which is *Huerta v. Splay Inc.*, in the Superior Court of the State of California, County of Alameda, Case No. RG21102661.

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

Alternatively, Class Members may appear remotely at the Final Approval Hearing on \_\_\_\_\_ at \_\_\_\_\_ to make an oral objection without submitting a written objection or to otherwise participate in the Final Approval Hearing. Currently, only remote appearances at the hearing are allowed. Check the Court's website for the most current information - <http://www.alameda.courts.ca.gov/>. 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.

The addresses for Parties' counsel are as follows:

**Class Counsel:**

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](mailto:kyle@bamlawca.com)  
Website: [www.bamlawca.com](http://www.bamlawca.com)

**Counsel for Defendant:**

Cathy L. Arias  
Cathy Arias Law  
1600 South Main Street, Ste. 325  
Walnut Creek, CA 94596

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

The Court will hold a Final Approval Hearing at \_\_\_\_\_ on \_\_\_\_\_, at the Alameda County Superior Court, located at \_\_\_\_\_, Oakland, CA 94612, in Department \_\_\_\_ before Judge \_\_\_\_\_. 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 a service payment to Plaintiff. 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, notice will be posted on Class Counsel's website at [www.bamlawca.com](http://www.bamlawca.com) under "Class Notices" for *Huerta v. Splay Inc.* In addition, hearing dates are posted on the Internet via the eCourt Public Portal page for the California Superior Court for the County of Alameda (<https://portal.alameda.courts.ca.gov/>) and entering the Case No. RG21102661

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

You may call the Settlement Administrator at \_\_\_\_\_ or write to *Huerta v. Splay Inc.* Settlement Administrator, c/o \_\_\_\_\_; 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 receive 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 by going to Class Counsel's website at [www.bamlawca.com](http://www.bamlawca.com) under "Class Notices" for *Huerta v. Splay Inc.* You may also get more details by examining the Court's file on the Internet via the eCourt Public Portal for the California Superior Court for the County of Alameda (<https://eportal.alameda.courts.ca.gov/>) and entering the Case No. RG21102661. If you wish to view the Court files in person, you must make an appointment with the Clerk's Office at the Rene C. Davidson Courthouse, 1225 Fallon Street, Oakland, California 94612.

**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 180 days after issuance if not deposited or cashed, and this expiration date will be printed on the check. 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 ALAMEDA

RAYMOND HUERTA, an individual, on  
behalf of himself and on behalf of all persons  
similarly situated,

Plaintiffs,

v.

SPLAY, INC., a California Corporation; and  
DOES 1 through 50, inclusive,

Defendants.

CASE NO.: **RG21102661**

**[PROPOSED] PRELIMINARY  
APPROVAL ORDER**

Hearing Date:  
Hearing Time:

Judge: Hon. Brad Seligman  
Dept.: 23

Action Filed: June 23, 2021  
Trial Date: None Set

1 This matter, having come before the Honorable Brad Seligman of the Superior Court of the  
2 State of California, in and for the County Alameda, on \_\_\_\_\_[DATE], for the motion by  
3 Plaintiff Raymond Huerta (“Plaintiff”) for preliminary approval of the class settlement with  
4 Defendant Splay, Inc. (“Defendant”). The Court, having considered the briefs, argument of  
5 counsel and all matters presented to the Court and good cause appearing, hereby GRANTS  
6 Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

7  
8 **IT IS HEREBY ORDERED:**

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

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

17 3. The Gross Settlement Amount is One Million Seven Hundred Thousand Dollars  
18 (\$1,700,000). It appears to the Court on a preliminary basis that the settlement amount and terms  
19 are fair, adequate and reasonable as to all potential Class Members when balanced against the  
20 probable outcome of further litigation and the significant risks relating to certification, liability and  
21 damages issues. It further appears that investigation and research have been conducted such that  
22 counsel for the Parties are able to reasonably evaluate their respective positions. It further appears  
23 to the Court that settlement at this time will avoid substantial additional costs by all Parties, as  
24 well as avoid the delay and risks that would be presented by the further prosecution of the Action.  
25 It further appears that the Settlement has been reached as the result of serious and non-collusive,  
26 arms-length negotiations. The Court therefore preliminarily finds that the Settlement is fair,

adequate, and reasonable when balanced against the probable outcome of further litigation and the significant risks relating to certification, liability, and damages issues.

4. The Agreement specifies for an attorneys' fees award not to exceed one-third of the Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$20,000, and proposed Class Representative Service Payment to the Plaintiff in an amount not to exceed \$10,000. The Court will not approve the amount of attorneys' fees and costs, nor the amount of any service award, until the Final Approval Hearing. Plaintiff will be required to present evidence supporting these requests, including lodestar, prior to final approval.

5. The Court recognizes that Plaintiff and Defendant stipulate and agree to certification of a class for settlement purposes only. This stipulation will not be deemed admissible in this or any other proceeding should this Settlement not become final. For settlement purposes only, the Court conditionally certifies the following Class: "all individuals who are or previously were employed by Defendant in California who were classified as non-exempt employees at any time during the Class Period, and who have previously not released their claims." The Class Period is June 23, 2017 through April 6, 2022.

6. The Court concludes that, for settlement purposes only, the Class meets the requirements for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class is ascertainable and so numerous that joinder of all members of the Class is impracticable; (b) common questions of law and fact predominate, and there is a well-defined community of interest amongst the members of the Class with respect to the subject matter of the litigation; (c) the claims of the Plaintiff are typical of the claims of the members of the Class; (d) the Plaintiff can fairly and adequately protect the interests of the members of the Class; (e) a class action is superior to other available methods for the efficient resolution of this controversy; and (f) counsel for the Class is qualified to act as counsel for the Class and the Plaintiff is an adequate representative of the Class.

7. The Court provisionally appoints Plaintiff as the representative of the Class. The Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik

1 of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class.

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

13           9.       The Court hereby appoints ILYM Group as Settlement Administrator. No later  
14 than fourteen (14) calendar days after preliminary approval of the Settlement by the Court,  
15 Defendant shall provide the Class Data to the Settlement Administrator. The Settlement  
16 Administrator will perform address updates and verifications as necessary prior to the mailing of  
17 the Class Notice. Using best efforts to mail it as soon as possible, and in no event later than 14  
18 days after receiving the Class information spreadsheet, the Settlement Administrator will mail the  
19 Class Notice to all Class Members via first-class U.S. Mail.

20           10.     The Court hereby preliminarily approves the proposed procedure for exclusion  
21 from the Settlement. Any Class Member may individually choose to opt out of and be excluded  
22 from the Class as provided in the Class Notice by following the instructions for requesting  
23 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be  
24 postmarked by no later than forty-five (45) calendar days after the date of the mailing of the Class  
25 Notice and received by the Settlement Administrator. If the Class Notice Packet is re-mailed, the  
26 response date for requests for exclusion will be extended an additional 15 days. Any such person  
27 who chooses to opt out of and be excluded from the Class will not be entitled to any recovery  
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1 under the Settlement and will not be bound by the Settlement or have any right to object, appeal or  
2 comment thereon. Class Members who have not requested exclusion shall be bound by all  
3 determinations of the Court, the Agreement and the Judgment. A request for exclusion may only  
4 opt out that particular individual, and any attempt to effect an opt out of a group, class, or subclass  
5 of individuals is not permitted and will be deemed invalid. Subject to the Court's final approval of  
6 the Settlement, those Aggrieved Employees that worked during the PAGA Period of June 23,  
7 2020 through April 6, 2022, will still be paid their allocation of the PAGA Payment and the Labor  
8 Workforce Development Agency will remain bound by the release of the Released PAGA Claims  
9 in the Agreement regardless of any request for exclusion.

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

19 12. A Final Approval Hearing shall be held before this Court on \_\_\_\_\_  
20 \_\_\_\_\_ at \_\_\_\_\_ in Department 23 at the Alameda County Superior Court to  
21 determine all necessary matters concerning the Settlement, including: whether the proposed  
22 settlement of the Action on the terms and conditions provided for in the Agreement is fair,  
23 adequate and reasonable and should be finally approved by the Court; whether the Final Approval  
24 Order and Judgment should be entered herein; whether the plan of allocation contained in the  
25 Agreement should be approved as fair, adequate and reasonable to the Class Members; and to  
26 finally approve attorneys' fees and costs, the service award, and the expenses of the Settlement  
27 Administrator. All papers in support of the motion for final approval and the motion for attorneys'  
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1 fees, costs and service award, both to be heard at the Final Approval Hearing, shall be filed with  
2 the Court and served on all counsel no later than sixteen (16) court days before the hearing.

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

15       14.     In the event the Settlement does not become effective in accordance with the terms  
16 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to  
17 become effective for any reason, this Order shall be rendered null and void and shall be vacated,  
18 and the Parties shall revert to their respective positions as of before entering into the Agreement,  
19 and expressly reserve their respective rights regarding the prosecution and defense of this Action,  
20 including all available defenses and affirmative defenses, and arguments that any claim in the  
21 Action could not be certified as a class action and/or managed as a representative action. In such  
22 an event, the Court's orders regarding the Settlement, including this Order, shall not be used or  
23 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of  
24 the Agreement with respect to the effect of the Agreement if it is not approved.

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

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

5 **IT IS SO ORDERED.**

6  
7 Dated: \_\_\_\_\_

\_\_\_\_\_  
8 HON. BRAD SELIGMAN  
9 JUDGE, SUPERIOR COURT OF CALIFORNIA  
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**EXHIBIT C**

[FINAL APPROVAL ORDER AND JUDGMENT]

**EXHIBIT "C"**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ALAMEDA

RAYMOND HUERTA, an individual, on  
behalf of himself and on behalf of all persons  
similarly situated,

Plaintiffs,

v.

SPLAY, INC., a California Corporation; and  
DOES 1 through 50, inclusive,

Defendants.

CASE NO.: **RG21102661**

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

Hearing Date:  
Hearing Time:

Judge: Hon. Brad Seligman  
Dept.: 23

Action Filed: June 23, 2021  
Trial Date: None Set

FINAL APPROVAL ORDER AND JUDGMENT

1 The motion of Plaintiff Raymond Huerta (“Plaintiff”) for an order finally approving the  
2 Class Action Settlement Agreement (“Agreement”) with Defendant Splay, Inc. (“Defendant”),  
3 attorneys’ fees and costs, service payment, and the fees and expenses of the Settlement  
4 Administrator duly came on for hearing on \_\_\_\_\_ before the Honorable Brad  
5 Seligman.

6  
7 **I.**  
8 **FINDINGS**

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

- 11 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 12 2. This Court has jurisdiction over the subject matter of this litigation pending before  
13 the California Superior Court for the County of Alameda, and over all Parties to this litigation,  
14 including the Class.
- 15 3. Based on a review of the papers submitted by Plaintiffs and a review of the  
16 applicable law, the Court finds that the Gross Settlement Amount of One Million Seven Hundred  
17 Thousand Dollars (\$1,700,000) and the terms set forth in the Agreement are fair, reasonable, and  
18 adequate.
- 19 4. The Court further finds that the Settlement was the result of arm’s length  
20 negotiations conducted after Class Counsel had adequately investigated the claims and became  
21 familiar with the strengths and weaknesses of those claims. In particular, the amount the  
22 Settlement, the significant risks relating to certification, liability, and damages issues, and the  
23 assistance of an experienced mediator in the settlement process, among other factors, support the  
24 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

25 **Preliminary Approval of the Settlement**

- 26 5. On \_\_\_\_\_, the Court granted preliminary approval of the Settlement. At  
27 this same time, the Court approved conditional certification of the Class for settlement purposes

1 only.

2 **Notice to the Class**

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

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

22 **Fairness Of Settlement**

23 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*  
24 48 Cal.App.4th 1794, 1801 (1996).

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

3 b. Plaintiff's investigation and discovery have been sufficient to allow the  
4 Court and counsel to act intelligently.

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

7 d. The percentage of objectors and requests for exclusion is small. \_\_\_\_  
8 objections were received. \_\_\_\_\_ requests for exclusion were received.

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

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

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

18 **Attorneys' Fees and Costs**

19 11. An award of \$\_\_\_\_\_ for attorneys' fees, representing one-third of the  
20 Gross Settlement Amount, and \$\_\_\_\_\_ for litigation costs and expenses, is reasonable,  
21 in light of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and  
22 the results achieved by Class Counsel. The requested award has been supported by Class  
23 Counsel's lodestar.

24 **Class Representative Service Payment**

25 12. The Agreement provides for a Class Representative Service Payment of not more  
26 than \$10,000 to the Plaintiff, subject to the Court's approval. The Court finds that Class  
27 Representative Service Payment in the amount of \$\_\_\_\_\_ to the Plaintiffs is reasonable in light  
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1 of the risks and burdens undertaken by the Plaintiff in the litigation, for his time and effort in  
2 bringing and prosecuting this matter on behalf of the Class, and for his execution of a general  
3 release.

4 **Settlement Administration Expenses**

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

12 **PAGA Payment**

13 14. The Agreement provides for a PAGA Payment out of the Gross Settlement  
14 Amount of \$50,000, which shall be allocated \$37,500 to the LWDA as the LWDA's 75% share of  
15 the settlement of civil penalties paid pursuant to the PAGA and \$12,500 to be distributed to the  
16 Aggrieved Employees based on their respective pay periods during the PAGA Period. The  
17 Aggrieved Employees are all individuals who are or previously were employed by Defendant in  
18 California who were classified as non-exempt employees at any time during the PAGA Period,  
19 and who have previously not released their claims, which is June 23, 2020 through April 6, 2022.  
20 The Court finds this PAGA Payment to be reasonable. All Aggrieved Employees will be sent  
21 their share of the PAGA Payment and the Labor Workforce Development Agency will be subject  
22 to the release of the Released PAGA Claims as set forth below, whether or not anyone opts out of  
23 the Settlement.

24  
25 **II.**

26 **ORDERS**

27 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:  
28

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

3           All individuals who are or previously were employed by Defendant in California  
4 who were classified as non-exempt employees at any time during the Class Period,  
and who have previously not released their claims

5           The Class Period is June 23, 2017 through April 6, 2022.

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

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

11           4.       Class Counsel are awarded attorneys' fees in the amount of \$\_\_\_\_\_ and  
12 costs in the amount of \$\_\_\_\_\_. Ten percent (10%) of any fee award shall be kept in the  
13 Settlement Administrator's trust fund until the completion of the distribution process and Court  
14 approval of a final accounting. Class Counsel shall not seek or obtain any other compensation or  
15 reimbursement from Defendant, Plaintiff or members of the Class.

16           5.       The payment of the Class Representative Service Payments in the amount of  
17 \$\_\_\_\_\_ to the Plaintiff is approved.

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

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

22           8.       The Agreement and this Settlement are not an admission by Defendant, nor is this  
23 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any  
24 wrongdoing by Defendant or that this Action is appropriate for class treatment (other than for  
25 settlement purposes). Neither this Final Approval Order and Judgment, the Agreement, nor any  
26 document referred to herein, nor any action taken to carry out the Agreement is, may be construed  
27 as, or may be used as an admission by or against Defendant of any fault, wrongdoing or liability  
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1 whatsoever. The entering into or carrying out of the Agreement, and any negotiations or  
2 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an  
3 admission or concession with regard to the denials or defenses by Defendant. Notwithstanding  
4 these restrictions, Defendant may file in the Action or in any other proceeding this Final Approval  
5 Order and Judgment, the Agreement, or any other papers and records on file in the Action as  
6 evidence of the Settlement to support a defense of res judicata, collateral estoppel, release, or other  
7 theory of claim or issue preclusion or similar defense as to the Released Class Claims and/or the  
8 Released PAGA Claims.

9           9.       Notice of entry of this Final Approval Order and Judgment shall be given to all  
10 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order  
11 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the  
12 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment  
13 to individual Class Members.

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

21  
22 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

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

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

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

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

8         5.         Upon the Effective Date and upon full funding of the Gross Settlement Amount,  
9 each Class Member who has not validly opted out has released the "Released Class Claims"  
10 against the Defendant as set forth in the Agreement. "Released Class Claims" means all class  
11 claims that were pled in the operative complaint in the Action or could have been plead based on  
12 the factual allegations contained in the operative complaint in the Action that occurred during the  
13 Class Period, which includes the following claims based upon the facts alleged in the operative  
14 complaint in the Action that occurred during the Class Period: (i) all claims for unpaid overtime;  
15 (ii) all claims for meal and rest break violations; (iii) all claims for unpaid wages, including  
16 minimum wages; (iv) all claims for failure to timely pay wages upon termination; (v) all claims  
17 for the failure to reimburse necessary business expenses; (vi) all claims for failure to timely pay  
18 wages during employment; (vii) all claims for wage statement violations; (viii) all claims asserted  
19 through California Business & Professions Code sections 17200, et seq., and expressly excluding  
20 all other claims, including claims for wrongful termination, vested benefits, unemployment  
21 insurance, disability, social security, and workers' compensation, and claims outside of the Class  
22 Period.

23         6.         Upon the Effective Date and upon full funding of the Gross Settlement Amount,  
24 Defendant shall receive a release from the State of California of all PAGA claims that were pled in  
25 the operative complaint in the Action, in the notice letter to the LWDA, or could have been plead  
26 based on the factual allegations contained in the operative complaint in the Action and/or in the  
27 LWDA Notice submitted by Plaintiff which occurred during the PAGA Period ("Released PAGA  
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1 Claims”). Release PAGA Claims include PAGA claims predicated on alleged violations of Labor  
2 Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197,  
3 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B),  
4 and California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating). The  
5 Released PAGA Claims may be released against all Released Parties. The Released PAGA  
6 Claims exclude any PAGA claims outside the PAGA Period. The release of the Released PAGA  
7 Claims shall be effective regardless of whether an Aggrieved Employee submitted a request for an  
8 exclusion from the Class. The Released PAGA Claims do not include all other claims, including  
9 claims for wrongful termination, vested benefits, social security, discrimination, unemployment  
10 insurance, disability and worker’s compensation, and claims outside of the PAGA Period..

11 7. As of the Effective Date, Plaintiff generally releases and discharges the Released  
12 Parties from any and all claims, known or unknown, asserted and unasserted, which Plaintiff has  
13 or may have against the Released Parties as set forth fully in the Agreement.

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

15  
16 Dated: \_\_\_\_\_

17 \_\_\_\_\_  
18 HON. BRAD SELIGMAN  
19 JUDGE, SUPERIOR COURT OF CALIFORNIA  
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**WRITERS EXT:  
1004**

December 11, 2020  
CA2261

**VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT**

Labor and Workforce Development Agency  
Online Filing

Worldpac, Inc.  
Certified Mail #70200640000074884006  
National Registered Agents  
818 West Seventh Street, Suite 930  
Los Angeles, CA 90017

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Defendant Worldpac, Inc. in California and classified as non-exempt employees during the time period of December 11, 2019 until a date as determined by the Court. Our offices represent Plaintiff Lamont Robinson (“Plaintiff”), and other Aggrieved Employees in a lawsuit against Defendant Worldpac, Inc. (“Defendant”). Plaintiff was employed by Defendant in California as an Assistant Manager from September 2018 to September 28, 2020 and classified as a non-exempt employee entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10)

minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5<sup>th</sup> 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to him, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant fails to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The filing fee of \$75 was paid online to the LWDA. The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.



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3 1600 South Main Street, Ste. 325  
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5 ---

6 Telephone: (925) 412-3529  
7 Email: cathy@cathyariaslaw.com

8 Attorneys for Defendant  
9 SPLAY, INC.

10 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA  
11 UNLIMITED JURISDICTION

12 RAYMOND HUERTA, an individual, on  
13 behalf of himself and on behalf of all persons  
14 similarly situated,

15 Plaintiff,

16 vs.

17 SPLAY, INC., a California Corporation; and  
18 DOES 1 through 50, inclusive,

19 Defendants.

No. RG21102661

**DECLARATION OF MICHELLE  
BAUER IN SUPPORT OF MOTION  
FOR PRELIMINARY APPROVAL**

**JUDGE:** Hon. Brad Seligman

Date:  
Time:  
Reservation No:  
Dept.: 23

**Complaint Filed: JUNE 23, 2021**

20 I, Michelle Bauer, declare:

- 21 1. I have personal knowledge of the facts set forth in this declaration. I am the Human  
22 Resources Manager for Defendant Splay, Inc. and am familiar with Defendant's payroll  
23 systems and information/reports that can be obtained.  
24 2. I queried the company payroll system and obtained data concerning non-exempt  
25 individuals employed by Splay, Inc. from June 23, 2017 through April 6, 2022. I  
26 determined there are approximately 669 individuals who were employed by Defendant and  
27 are considered Putative Class Members.  
28

1 3. Per my calculations, the Putative Class Members worked approximately 63,496  
2 workweeks from June 23, 2017 through April 6, 2022. I determined this number by taking  
3 the number of regular hours worked by Putative Class members from June 23, 2017  
4 through April 6, 2022 and dividing it by 40 hours.

5  
6  
7 I declare under penalty of perjury under the laws of the State of California that the foregoing  
8 is true and correct. Executed this 27 day of April at Seal Beach California.

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12 MICHELLE BAUER  
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**Blumenthal Nordrehaug Bhowmik De Blouw LLP**

2255 Calle Clara, La Jolla, California 92037

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**FIRM RESUME**

Areas of Practice: Employee, Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation, Business Litigation.

**ATTORNEY BIOGRAPHIES**

**Norman B. Blumenthal**

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

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

**Kyle R. Nordrehaug**

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

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

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

**Aparajit Bhowmik**

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

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

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**

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

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)

**Piya Mukherjee**

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)

**Victoria Rivapalacio**

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

Admitted: 2011, California

Educated: University of California at San Diego (B.A., 2003); George Washington University Law School (J.D. 2010)

**Ricardo Ehmann**

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2018, California; 2004, Nevada

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

**Jeffrey S. Herman**

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2011, California; 2016 Arizona

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

**Charlotte James**

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: San Diego State University; California Western School of Law

**Christine Levu**

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2012, California

Educated: University of California, Irvine; California Western School of Law

**Andrew Ronan**

Associate Attorney

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 (9<sup>th</sup> 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. 4<sup>th</sup> 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 (9<sup>th</sup> 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 (9<sup>th</sup> 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 (9<sup>th</sup> 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 (3<sup>rd</sup> 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 (9<sup>th</sup> 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)

### **CLASS ACTION & REPRESENTATIVE CASES**

4G Wireless Wage Cases, Orange County Superior Court, JCCP No. 4736; Classic Party Rentals Wage & Hour Cases, Los Angeles Superior Court, Case No. JCCP No. 4672; Abu-Arafeh v. Norco Delivery Service, Inc., San Francisco County Superior Court, Case No. CGC-14-540601; Aburto v. Verizon, U.S. District Court, Southern District California, Case No. 11-cv-0088; Adkins v. Washington Mutual Bank, Class Certification Granted, San Diego County Superior Court, Case No. GIC819546; Agah v. CompUSA, U.S. District Court, Central District of California, Case No. SA CV05-1087 DOC (Anx); Akers v. The San Diego Union Tribune, San Diego County Superior Court, Case No 37-2010-00088571; Altman v. SolarCity Corporation, San Diego County Superior Court, Case No. 37-2014-00023450-CU-OE-CTL; Aquino v. Macy's West Stores, Orange County Superior Court, Case No. 30-2010-00395420; Baker v. Advanced Disability Management, Inc., Sacramento County Superior Court, Case No. 34-2014-00160711; Barcia v. Contain-A-Way, U.S. District Court, Southern District California, Case No. 07 cv 0938; Bates v. Verengo, Inc., Orange County Superior Court, Case No. 30-2012-00619985-CU-OE-CXC; Battle v. Charming Charlie Inc., San Diego

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 Dairy, 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. Culinary 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



# ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

## Case Name: Splay

Requesting Attorneys Name:

Kyle Nordrehaug

E-Mail:

[kyle@bamlawca.com](mailto:kyle@bamlawca.com)

ILYM Contact:

Sean Hartranft

E-Mail:

[Sean@ilymgroupclassaction.com](mailto:Sean@ilymgroupclassaction.com)

Contact Number:

949.690.2564

## ESTIMATE FOR ADMINISTRATION SOLUTIONS

| ASSUMPTIONS                              |     |
|------------------------------------------|-----|
| Total Number of Class Members            | 700 |
| Estimated Mail Returned as Undeliverable | 20% |
| NCOA                                     | Yes |
| Certified Spanish Translation            | Yes |
| Case Duration (Year(s))                  | 2   |

| Activity                                       | Rate Type | Unit Cost | Volume | Amount   |
|------------------------------------------------|-----------|-----------|--------|----------|
| CASE STARTUP                                   |           |           |        |          |
| Initial Setup - Import and Formatting of Data* | Hourly    | \$150.00  | 3      | \$450.00 |
| Programming of Class Database                  | Hourly    | \$175.00  | 3      | \$525.00 |

*\*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.*

**Subtotal \$975.00**

| PROJECT MANAGEMENT & NOTICING                                |           |            |   |            |
|--------------------------------------------------------------|-----------|------------|---|------------|
| Project Manager (Case notification and maintenance)          | Hourly    | \$120.00   | 7 | \$840.00   |
| Staff Hours for Processing Returned Mail                     | Hourly    | \$70.00    | 1 | \$70.00    |
| Staff Hours for Processing Opt-Outs, Disputes & Objection(s) | Hourly    | \$70.00    | 4 | \$280.00   |
| Report Processing                                            | Hourly    | \$70.00    | 6 | \$420.00   |
| NCOA                                                         | Flat Rate | \$119.50   | 1 | \$119.50   |
| Toll Free Customer Service Representative                    | Flat Fee  | \$195.00   | 1 | \$195.00   |
| Certified Spanish Translation                                | Flat Fee  | \$1,250.00 | 1 | \$1,250.00 |
| Weekly Reports                                               | Flat Rate | \$750.00   | 1 | Waived     |

**Subtotal \$3,174.50**

# ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

| Activity | Rate Type | Unit Cost | Volume | Amount |
|----------|-----------|-----------|--------|--------|
|----------|-----------|-----------|--------|--------|

## NOTIFICATION/MAILING

|                                              |           |          |     |            |
|----------------------------------------------|-----------|----------|-----|------------|
| Fulfillment of Notice                        | Per Piece | \$1.50   | 700 | \$1,050.00 |
| USPS First Class Postage                     | Per Piece | \$0.55   | 700 | \$385.00   |
| Re-Mails (Forward/Skip trace Undeliverables) | Per Piece | \$2.00   | 140 | \$280.00   |
| Storage, Photocopies, Deliveries             | Flat Fee  | \$250.00 | 1   | \$250.00   |

**Subtotal \$1,965.00**

## DISTRIBUTION (Includes EIN, Bank Acct \* /QSF Setup)

|                                                        |           |            |     |            |
|--------------------------------------------------------|-----------|------------|-----|------------|
| Distribution Setup & Management                        | Hourly    | \$150.00   | 5   | \$750.00   |
| Account Reconciliation & Distribution Reporting        | Hourly    | \$125.00   | 5   | \$625.00   |
| Check, Stub & Release - Print & Mail (1099)            | Per Check | \$1.50     | 700 | \$1,050.00 |
| USPS First Class Postage                               | Per Piece | \$0.55     | 700 | \$385.00   |
| Re-Mails (Forward/Skip trace Undeliverables up to 10%) | Per Piece | \$2.00     | 70  | \$140.00   |
| Reminder Postcard, Includes Postage                    | Per Piece | \$0.90     | 245 | \$220.50   |
| Reminder Notice via Email and Social Media             | Flat Fee  | \$175.00   | 1   | \$175.00   |
| Preparation of Taxes                                   | Hourly    | \$120.00   | 14  | \$1,680.00 |
| Annual Filing of Tax Return                            | Per Year  | \$1,250.00 | 2   | \$2,500.00 |

\*Additional Bank fees may apply

**Subtotal \$7,525.50**

## CASE CONCLUSION

|                                             |          |          |   |          |
|---------------------------------------------|----------|----------|---|----------|
| Data Manager Final Reporting                | Hourly   | \$100.00 | 5 | \$500.00 |
| Project Manager Final Reporting             | Hourly   | \$120.00 | 5 | \$600.00 |
| Process Unclaimed Funds to State Controller | Flat Fee | \$750.00 | 1 | \$750.00 |
| Declaration                                 | Hourly   | \$125.00 | 4 | \$500.00 |

**Subtotal \$2,350.00**

**TOTAL CASE ESTIMATE: \$15,990.00**

# Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

**Services:** Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

**Mailing and Data Conversion:** ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

**Charges for Services:** Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

**Indemnification:** Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, 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 ILYM 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 ILYM pursuant to Client's instructions.

**Payment of Charges:** ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

**Confidentiality:** ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

**Data Rights:** ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

**Document Retention:** Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence 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.

**Limitation of damages:** ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

**Termination:** The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

**Notice:** Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, 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.

**Force Majeure:** To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

**Waiver of Rights:** No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

**Jurisdiction:** The parties hereto 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 waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

**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.