

1 **BLUMENTHAL NORDREHAUG BHOWMIK**
2 **DE BLOUW LLP**

3 Norman B. Blumenthal (State Bar #068687)

4 Kyle R. Nordrehaug (State Bar #205975)

5 Aparajit Bhowmik (State Bar #248066)

6 2255 Calle Clara

7 La Jolla, CA 92037

8 Telephone: (858)551-1223

9 Facsimile: (858) 551-1232

10 Firmsite: www.bamlawca.com

11 Attorneys for Plaintiff

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF ALAMEDA**

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

17 Plaintiffs,

18 vs.

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

22 Defendants.

CASE No. **RG21102661**

**DECLARATION OF NORMAN BLUMENTHAL
IN SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS SETTLEMENT**

Hearing Date: December 13, 2022

Hearing Time: 3:00 p.m.

[Hearing scheduled by Order dated August 9, 2022]

Reservation # A-21102661-001

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

Action Filed: June 23, 2021

Trial Date: None Set

1 I, NORMAN B. BLUMENTHAL, declare as follows:

2 1. I am the managing partner of the law firm of Blumenthal Nordrehaug Bhowmik De
3 Blouw LLP, counsel of record for Plaintiff Raymond Huerta ("Plaintiff") in this matter. As such, I am
4 fully 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 herein.
6 This declaration is being submitted in support to the Plaintiff's motion for final approval of the class
7 settlement.

8 2. Over the course of the litigation, a number of attorneys in my firm have worked on this
9 matter. Their credentials are reflected in the Blumenthal Nordrehaug Bhowmik De Blouw LLP firm
10 resume, a true and correct copy of which is attached hereto as Exhibit #1. Some of the major cases our
11 firm has undertaken are also set forth in Exhibit #1. The bulk of the attorneys involved in this matter at
12 Blumenthal Nordrehaug Bhowmik De Blouw LLP have had substantial class litigation experience in the
13 areas of employment class actions, unfair business practices and other complex litigation. The attorneys
14 at my firm have extensive experience in cases involving labor code violations and overtime claims. Class
15 Counsel has litigated similar overtime cases against other employers on behalf of employees, including
16 cases against Cigna, HealthNet, Securitas, Fed Ex, Okta, El Pollo Loco, Total Renal, Panda Express,
17 Walt Disney Resorts, Pharmaca, Nortek Security, California Fine Wine, Solarcity, Space Exploration,
18 Union Bank, Verizon, Apple, Wells Fargo, Kaiser, Universal Protection Services, and California State
19 Automobile Association. Class Counsel have been approved as experienced class counsel during
20 contested motions in state and federal courts throughout California. It is this level of experience which
21 enabled the firm to undertake the instant matter and to successfully combat the resources of the
22 defendants and their capable and experienced counsel. Class Counsel have participated in every aspect
23 of the settlement discussions and have concluded the settlement is fair, adequate and reasonable and in
24 the best interests of the Class.

25
26 3. Summary of the Proposed Settlement.

27 (a) A true and correct copy of the Class Action Settlement Agreement with the Stipulation to
28 Modify the Agreement (collectively the "Agreement") between the parties is attached hereto as Exhibit

1 #2.¹ Plaintiff and Defendant Splay, Inc. ("Defendant") reached a full and final settlement of the
2 above-captioned action, which is embodied in the Agreement filed concurrently with the Court. As
3 consideration for this Settlement, the Gross Settlement Amount to be paid by Defendant is One Million
4 Seven Hundred Thousand Dollars (\$1,700,000). (Agreement at ¶¶ II(19) and III(34).) Under the
5 Settlement, the Gross Settlement Amount consists of the following elements: (1) payment of the
6 Settlement Shares to the Class; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses
7 Payment; (3) Settlement Administration Expenses; (4) Class Representative Service Payment to the
8 Plaintiff; and (5) the PAGA Payment. (Agreement at ¶ III(34)-(36).)

9 (b) The Gross Settlement Amount does not include Defendant's share of payroll taxes.
10 (Agreement at ¶ III(34).) The Gross Settlement Amount shall be all-in with no reversion to Defendant.
11 (Agreement at ¶ III(34).)

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

20 (d) The Net Settlement Amount shall equal the net amount available for payment to the Class
21 after deducting the Court-approved amounts for the Class Representative Service Payment, the Class
22 Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the PAGA Payment, and the
23 Settlement Administration Expenses. (Agreement at ¶ I(21).) The Net Settlement Amount will be
24 distributed as the Settlement Shares to the Class Members who do not timely request exclusion
25 ("Participating Class Members"). (Agreement at ¶¶ I(24) and III(36)(i).) The Settlement Share will be
26 calculated as follows: (a) the Settlement Administrator shall divide the Net Settlement Amount by the
27

28 ¹ Capitalized terms are defined in the Agreement.

1 total number of weeks included in the dates of employment to determine a dollar amount per week
2 ("Weekly Rate"); and (iii) the Settlement Administrator shall then take the number of weeks worked by
3 each Participating Class Member and multiply it by the Weekly Rate to calculate their Settlement Share.
4 (Agreement at ¶ III(36)(j).) Workweeks will be based on Defendant's records, however Class Members
5 will have the right to challenge the number of workweeks. (Agreement at ¶ 42(b).)

6 (e) Class Members were sent the Court approved Class Notice using the procedure approved by
7 the Court by mailing the notice packets after updating class members' addresses using the National
8 Change of Address database and, for any notice packets returned as undeliverable, re-mailing such
9 notices to any forwarding address provided or updated address located. Declaration of Madely Nava
10 ("Nava Decl.") ¶ 7. Class Members were provided with the opportunity to exclude themselves or "opt
11 out" if they did not want to participate in the settlement. (Agreement at ¶ 44(c), Ex. A.) Nava Decl. ¶ 5,
12 Exh. A. One (1) Class Member submitted a valid requests for exclusion. Nava Decl. ¶ 11. The remaining
13 Class Members are deemed Participating Class Members who are bound by the Settlement and will be
14 entitled to receive a Settlement Share. (Agreement at ¶ III(38)(c)(iii).) All Aggrieved Employees will
15 be paid their allocation of the PAGA Payment and will remain bound by the release of the PAGA
16 Released Claims regardless of their request for exclusion. (Agreement at ¶ III(38)(c)(iii).) The Class
17 Notice also advised Class Members of their right to object to the Settlement and/or dispute their
18 workweeks. (Agreement at ¶ III(38)(c); Nava Decl. ¶ 7, Exh. A.) Blumenthal Decl. ¶ 3(e).

19 (f) A Participating Class Member must cash his or her Settlement Share check within 180 days
20 after it is mailed. (Agreement at ¶ III(42).) The Settlement Administrator will send a reminder to
21 Participating Class Members who have not cashed their checks 60 days before the expiration date.
22 (Agreement at ¶ III(42).) Pursuant to the modification by Stipulation, any settlement checks not cashed
23 within 180 days will be voided and any funds from such uncashed checks will be paid to o a
24 Court-approved cy pres beneficiary consistent with California Code of Civil Procedure § 384, which the
25 Parties propose to be the Children's Advocacy Institute . (Agreement at ¶ III(42).) Blumenthal Decl.
26 ¶3(f).

27 (g) IYLM Group was appointed by the Court as the Settlement Administrator for the Settlement.
28 (Preliminary Approval Order at ¶9; Agreement at ¶ III(37).) From the Gross Settlement Amount, the

1 Settlement Administrator shall be paid for the expenses of administering the Settlement in an amount not
2 to exceed \$20,000. (Agreement at ¶ III(35)(h). As set forth in the Nava Decl. at ¶15, the Settlement
3 Administration Expenses, including fees and costs incurred to-date, as well as anticipated fees and costs
4 for completion of the settlement administration, are \$15,990.

5 (h) Subject to Court approval, the Agreement provides for Class Counsel to be awarded a sum
6 not to exceed thirty percent (30%) of the Gross Settlement Amount, as the Class Counsel Fees Payment.
7 (Agreement at ¶ III(35)(f).) Class Counsel will also be allowed to apply separately for an award of Class
8 Counsel Litigation Expenses Payment in an amount not to exceed \$20,000. (Agreement at ¶ III(35)(f).)
9 Subject to Court approval, the Agreement provides for a payment of no more than \$10,000 to the Plaintiff
10 as the Class Representative Service Payment. (Agreement at ¶ III(35)(e).) In support of this separate
11 motion for attorneys' fees, reimbursement of expenses and service awards, Class Counsel is providing
12 evidentiary support, for these requests, including lodestar.

13 (i) Subject to Court approval, Fifty Thousand Dollars (\$50,000) will be paid from the Gross
14 Settlement Amount for PAGA penalties under the California Private Attorneys General Act, Cal. Labor
15 Code Section 2698, *et seq.* ("PAGA"). Pursuant to the express requirements of Labor Code § 2699(i),
16 the PAGA Payment shall be allocated as follows: 75% (\$37,500) to the LWDA as the LWDA's share of
17 the PAGA Payment pursuant to PAGA and 25% (\$12,500) will be distributed to the Aggrieved
18 Employees based on their respective pay periods worked during the PAGA Period. (Agreement at ¶
19 III(35)(g).) As set forth in the accompanying proof of service, the LWDA has been served with this
20 motion and the Agreement.

21 (j) The Settlement is fair, adequate and reasonable to the class and should be finally approved
22 for the same reasons the Court granted preliminary approval of the Settlement, agreeing that the
23 settlement is "fair, adequate, and reasonable". (Preliminary Approval Order at ¶ 3.) In sum, the
24 Settlement valued at \$1,700,000 is an excellent result for the Class. This result is particularly favorable
25 in light of the fact that liability and class certification in this case were far from certain in light of the
26 defenses asserted by Defendant. Given the complexities of this case, the defenses asserted, the
27 uncertainty of class certification, along with the uncertainties of proof at trial and appeal, the proposed
28 settlement is fair, reasonable and adequate, and should be finally approved.

1 4. Procedural status of the settlement - In accordance with the Preliminary Approval Order
2 dated June 23, 2022 ("Preliminary Approval Order"), the approved Class Notice has been disseminated
3 to the Class. The reaction of the Class unequivocally supports approval of the Settlement. On September
4 22, 2022, the Settlement Administrator mailed the Court-approved Class Notice to the Class Members,
5 which provided each class member with the terms of the Settlement, including notice of the claims at
6 issue and the financial terms of the settlement, including the attorneys' fees, costs, and service award that
7 were being sought, how individual settlement awards would be calculated, and the specific, estimated
8 payment amount to that individual. See Nava Decl. ¶ 7, Exh. A. In disseminating the notice, the
9 Settlement Administrator followed the notice procedures authorized by the Court in its Preliminary
10 Approval Order. Significantly, there have been no objections and only one (1) valid request for
11 exclusion. Nava Decl. ¶¶ 11, 12. As such, nearly the entire Class will participate in the Settlement and
12 will be sent a settlement check. See Nava Decl. at ¶¶ 13, 14.

13
14 5. Description of Plaintiff's claims -The Action generally alleges that Plaintiff and other
15 Class Members were not properly paid all overtime wages for hours worked, were not provided meal and
16 rest periods, were not timely paid earned wages, were not provided reimbursement for required expenses,
17 were not provided accurate itemized wage statements, were not paid all wages at the time of termination.
18 The Action seeks unpaid wages, penalties, attorney fees, litigation costs, and any other equitable or legal
19 relief allegedly due and owing to Plaintiff and the other Class Members by virtue of the foregoing claims.

20
21 6. Procedural History of the Litigation

22 (a) On June 23, 2021, Plaintiff filed a Complaint against Defendant in the Superior Court of the
23 State of California, County of San Diego. Plaintiff asserted claims against Defendant for: (1) unfair
24 competition in violation of Cal. Bus & Prof. Code §§ 17200, et seq.; (2) failure to pay minimum wages
25 in violation of California Labor Code §§ 1194, 1197 and 1197.1 (3) failure to pay overtime wages in
26 violation of Cal. Labor Code § 510; (4) failure to provide required meal periods in violation of Cal. Labor
27 Code §§ 226.7 and 512; (5) failure to provide required rest periods in violation of Cal. Labor Code §§
28 226.7 and 512; (6) failure to reimburse employees for expenses in violation of Labor Code § 2802; (7)

1 failure to provide accurate itemized wage statements in violation of California Labor Code § 226; (8)
2 failure to provide wages at termination in violation of Cal. Lab. Code § 201, 202, and 203; and (9)
3 violation of the Private Attorney General Act, Cal. Labor Code §§ 2698, et seq. ("PAGA") based upon
4 the alleged violations.

5 (b) Over the course of litigation, the Parties engaged in the investigation of the claims, including
6 production of documents, class data, and other information, allowing for the full and complete analysis
7 of liabilities and defenses to the claims in the Action. There was extensive written discovery performed
8 by the Parties. The information for mediation obtained by Plaintiffs included: (1) time punch data
9 showing employees' shifts and their time worked; (2) Payroll data for employees; (3) Defendant's employee
10 wage and hour policies; (5) the employment files for the Plaintiff; and, (7) samples of wage statements
11 provided by Defendant. Plaintiffs and Defendant agreed to discuss resolution of the Action through a
12 mediation.

13 (c) Prior to mediation, the Parties engaged in the above investigation and the exchange of
14 documents and information in connection with the Action. On December 7, 2021, the Parties participated
15 in an all-day mediation presided over by Louis Marlin, Esq., a respected and experienced mediator of
16 wage and hour class actions. Following the mediation, each side, represented by its respective counsel,
17 were able to agree to settle the Action based on a mediator's proposal which was memorialized in the
18 form of a Memorandum of Understanding. At all times, the negotiations were arm's length and
19 contentious.

20 (d) The Parties continued to negotiate the terms of the settlement and prepared the final
21 Agreement which was signed by the Parties and is now presented to this Court for preliminary approval.
22 Accordingly, for purposes of this Settlement, the "Class" is defined as "all individuals who are or
23 previously were employed by Defendant Splay, Inc. in California who were classified as non-exempt
24 employees at any time during the Class Period." (Preliminary Approval Order at 3:13-16). The "Class
25 Period" is June 23, 2017 through March 24, 2022, which end date was modified by agreement of the
26 Parties to keep within the cap of 75,000 workweeks. Paragraph III(36)(m) of the Agreement provides
27 that in the event the cap of 75,000 workweeks is exceeded, "the Release date will be moved back to only
28 cover the Class and PAGA Periods during which no more than 75,000 weekly pay periods were worked

1 by the Class Members”. The proposed Final Approval Order and Judgment reflects this March 24, 2022
2 end date, and the Class List and Notice was already conformed to this March 24, 2022 end date.

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

13 14 7. History of Settlement Discussions

15 (a) This Settlement is the result of extensive and hard-fought litigation as well as negotiations
16 before an experienced and well-respected mediator. Defendant has expressly denied and continues to
17 deny any wrongdoing or legal liability arising out of the conduct alleged in the Action. Plaintiff and
18 Class Counsel have determined that it is desirable and beneficial to the Class to resolve the Released
19 Class Claims in accordance with this Settlement. Class Counsel are experienced and qualified to evaluate
20 the class claims, the viability of the defenses asserted, and the risks and benefits of trial and settlement,
21 and Class Counsel are experienced in wage and hour employment law class actions, as Class Counsel
22 has previously litigated and certified similar claims against other employers.

23 (b) The Parties attended an arms-length mediation session with Louis Marlin, a respected and
24 experienced mediator of wage and hour class actions, in order to reach this Settlement. In preparation
25 for the mediation, Defendant provided Class Counsel with necessary information for the members of the
26 Class, including time data, payroll data and data concerning the composition of the Class. Plaintiff
27 analyzed the data with the assistance of damages expert, Berger Consulting, and prepared and submitted
28 a mediation brief and damage valuation to the Mediator. At the conclusion of the all-day mediation, the

1 Parties agreed to this Settlement.

2 (c) From January 2022 to March 2022, the Class Action Settlement Agreement and exhibits
3 thereto were drafted, finalized and executed. In response to the Court's initial ruling on preliminary
4 approval on July 12, 2022, the Plaintiff submitted a supplemental declaration which addressed the issues
5 identified by the Court. On August 9, 2022, the Court issued its Order granting preliminary approved
6 of the settlement as fair and reasonable to the Class.

7 (d) Plaintiff and Class Counsel believe that this settlement is fair, reasonable and adequate. In
8 my judgment as experienced Class Counsel, this Settlement should be finally approved.

9
10 8. The outcome of this case would have been uncertain and fraught with risks.

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

27 (b) There was also a significant risk that, if the Action was not settled, Plaintiff would be unable
28 to obtain class certification and thereby not recover on behalf of any employees other than themselves.

1 Defendant argued that the individual experience of each putative class member varied with respect to the
2 claims. Defendant could also contest class certification by arguing injury and good faith were case by
3 case determinations that precluded class certification. Plaintiff is aware of cases where class certification
4 of similar claims was denied. See e.g. *Cacho v. Eurostar, Inc.*, 43 Cal. App. 5th 885 (2019) (denying
5 certification of meal and rest break claims). Defendant also contended that individual differences in work
6 experiences not only impacted damages but would also impact certification. Finally, even if class
7 certification was successful, as demonstrated by the California Supreme Court decision in *Duran v. U.S.*
8 *Bank National Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class wide
9 recovery even where the class has been certified. While other cases have approved class certification in
10 wage and hour claims, class certification in this action would have been hotly disputed and was by no
11 means a foregone conclusion.

12 (c) As demonstrated by the decision in *Duran*, the complexities and duration of further litigation
13 cannot be overstated. There is little doubt that Defendant would post a bond and appeal in the event of
14 an adverse judgment. A post-judgment appeal by Defendant would have required many more years to
15 resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case
16 could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh
17 an uncertain result three or more years in the future. Plaintiff and Class Counsel recognize the expense
18 and length of a trial against Defendant through possible appeals which could take at least another two
19 or three years. Class Counsel also have taken into account the uncertain outcome, the risk of litigation,
20 especially in complex actions such as this one. Class Counsel are also mindful of and recognize the
21 inherent problems of proof under, and alleged defenses to, the claims asserted in the Action. Moreover,
22 post-trial motions and appeals would have been inevitable. Costs would have mounted and recovery
23 would have been delayed if not denied, thereby reducing the benefits of an ultimate victory. Plaintiff and
24 Class Counsel believe that the Settlement confers substantial benefits upon the Class. Based upon their
25 evaluation, Plaintiff and Class Counsel have determined that the Settlement set forth in the Agreement
26 is in the best interest of the Class.

27 (d) The calculations to compensate for the amount due to the Class Members at the time this
28 Settlement was negotiated were calculated by Plaintiff's expert, Berger Consulting, in advance of

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

19 ² While Plaintiff alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
20 226, at mediation Plaintiff recognized that these claims were subject to various defenses asserted by
21 Defendant, including, but not limited to, a good faith dispute defense as to whether any premium wages
22 for meal or rest periods or other wages were owed given Defendant's position that Plaintiff were
23 properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576, 584 (2010) ("There
24 is no willful failure to pay wages if the employer and employee have a good faith dispute as to whether
25 and when the wages were due."). Additionally, at the time of mediation, Courts had held that violations
26 of the meal and rest period regulations, which require payment of a "premium wage" for each improper
27 meal period, do **not** give rise to claims under sections 203 and 226. *See Ling v. P.F. Chang's China*
28 *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.

³ Because the PAGA claim does not provide a recovery to the Class, Plaintiff has not included the
PAGA claim in this discussion. The PAGA claim and the reasonableness of the resolution of the
PAGA claim was addressed in the Declaration of Kyle Nordrehaug at ¶ 33 submitted in support of the
motion for preliminary approval.

1 to the potential value of the claims, the Settlement is most certainly fair and reasonable.⁴ Even greater
2 detail as to the valuation of the class claims was presented in the Declaration of Kyle Nordrehaug
3 submitted in support of preliminary approval.

4 (e) In sum, the Settlement is a fair and reasonable result, and provides the Class with a significant
5 recovery, particularly when viewed in light of the fact that the Defendant asserted serious and substantial
6 defenses both to liability and to class certification. Currently, the maximum and average class member
7 allocation are \$3,670 and \$1,627, respectively. See Nava Decl. ¶14. Given the complexities of this case,
8 the defenses, along with the uncertainties of proof and appeal, the proposed Settlement is fair, reasonable
9 and adequate, and should be finally approved.

10 (f) It is impossible to predict with certainty whether, under the facts of this case, Plaintiff would
11 prevail against the Defendant's factual and legal defenses. While Plaintiff and Class Counsel believe in
12 the merits of the claims, Defendant has asserted real and substantial defenses to these claims and to class
13 certification. Settlement in this case clearly benefits the Class when measuring the strengths of Plaintiff's
14 case and the risk of establishing class wide liability and damages.

15
16 I declare under penalty of perjury under the laws of the State of California that the foregoing is
17 true and correct. Executed this 14th day of November 2022, at San Diego, California.

18
19 /s/ Norman Blumenthal
20 NORMAN B. BLUMENTHAL
21
22
23

24 ⁴ See *Dunleavy v. Nadler (In re Mego Fin. Corp. Sec. Litig.)*, 213 F.3d 454, 459 (9th Cir. 2000)
25 approving settlement which represented "roughly one-sixth of the potential recovery"); *Stovall-Gusman*
26 *v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at *12 (N.D. Cal. 2015) (granting final approval
27 where "the proposed Total Settlement Amount represents approximately 10% of what class might have
28 been awarded had they succeeded at trial."); *Viceral v. Mistras Grp., Inc.*, 2016 WL 5907869 (N.D.
Cal. 2016) (approving wage and hour class action settlement amounting to 8.1% of full verdict value);
Ma v. Covidien Holding, Inc., 2014 WL 2472316, (C.D. Cal. 2014) (approving wage and hour class
action settlement worth "somewhere between 9% and 18%" of full verdict value).

Blumenthal Nordrehaug Bhowmik De Blouw LLP

2255 Calle Clara, La Jolla, California 92037

Tel: (858) 551-1223

Fax: (858) 551-1232

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

Associate Attorney

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

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

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

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

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

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

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

District of California, Case No. 09-cv-1736; Francisco v. Diebold, U.S. District Court, Southern District of California, Case No. 09-cv-1889; Friend v. Wellpoint, Los Angeles Superior Court, Case No. BC345147; Frudakis v. Merck Sharp & Dohme, U.S. District Court, Central District California, Case No. SACV 11-00146; Fulcher v. Olan Mills, Inc., U.S. District Court, Northern District of California, Case No. 11-cv-1821; Gabisan v. Pelican Products, U.S. District Court, Southern District California, Case No. 08 cv 1361; Galindo v. Sunrun Installation Services Inc., San Diego County Superior Court, Case No. 37-2015-00008350-CU-OE-CTL; Gallagher v. Legacy Partners Commercial, Santa Clara County Superior Court, Case No. 112-cv-221688; Ghattas v. Footlocker Retail, Inc., U.S. District Court Central District of California, Case No. CV 13-0001678 PA; Gibson v. World Savings, Orange County Superior Court, Case No. 762321; Goerzen v. Interstate Realty Management, Co., Stanislaus County Superior Court, Case No. 679545; Gomez v. Enterprise Rent-A-Car, U.S. District Court, Southern District of California, Case No. 3:10-cv-02373; Gordon v. Wells Fargo Bank, U.S. District Court, Southern District of California, Case No. 3:11-cv-00090; Grabowski v. CH Robinson, U.S. District Court, Southern District of California, Case No. 10-cv-1658; Gross v. ACS Compiq Corporation, Orange County Superior Court, Case No. 30-2012-00587846-CU-OE-CXC; Gripenstraw v. Buffalo Wild Wings, U.S. District Court, Eastern District of California, Case No. 12-CV-00233; Gruender v. First American Title, Orange County Superior Court, Case No. 06 CC 00197; Guillen v. Univision Television Group, Inc. & Univision Management Co., San Francisco County Superior Court, Case No. CGC-12-526445; Gujjar v. Consultancy Services Limited, Orange County Superior Court, Case No. 30-2010-00365905; Gutierrez v. Five Guys Operations, LLC, San Diego County Superior Court, Case No. 37-2012-00086185-CU-OE-CTL; Handler v. Oppenheimer, Los Angeles Superior Court, Civil Action No. BC343542; Harley v. Tavistock Freebirds, LLC, Sacramento County Superior Court, Case No. 34-2014-00173010; Harrington v. Corinthian Colleges – Class Certification Granted, Orange Superior Court; United States Bankruptcy Court District of Delaware; Harvey v. PQ Operations, Inc., Los Angeles County Superior Court, Case No. BC497964; Henshaw v. Home Depot U.S.A., United States District Court, Central District of California, Case No. SACV10-01392; Heithold v. United Education Institute, Orange County Superior Court, Case No. 30-2013-00623416-CU-OE-CXC; Hibler v. Coca Cola Bottling, Settled U.S. District Court, Southern District of California, Case No. 11cv0298; Hildebrandt v. TWC Administration LLC & Time Warner NY Cable, LLC, U.S. District Court, Central District of California, Case No. ED-cv-13-02276-JGB; Hopkins v. BCI Coca-Cola Bottling Company of Los Angeles, United states District Court, Central District of California; U.S. Court of Appeals 9th Circuit; Howard v. Southern California Permanente Medical Group, Los Angeles Superior Court, Case No. BC586369; Hughes v. Parexel International, Los Angeles County Superior Court, Case No. BC485950; Hurley v. Comcast of California/Colorado/Texas/Washington, Inc., Sonoma County Superior Court, Case No. SCV-253801; Irving v. Solarcity Corporation, San Mateo County Superior Court, Case No. CIV525975; Jacobs v. Nu Horizons - Settled Santa Clara County Superior Court, Case No. 111cv194797; Jefferson v. Bottling Group LLC (Pepsi) - Class Certification Granted, Orange County Superior Court, Case No. 30-2009-0018010; Jones v. E*Trade Mortgage, U.S. District Court, Southern District California Case No. 02-CV-1123 L (JAH); Kennedy v. Natural Balance - Dismissal Reversed on Appeal, San Diego Superior Court, Case No. 37-2007-00066201; Keshishzadeh v. Arthur J. Gallagher Service Co., U.S. District Court, Southern District of California, Case No. 09-cv-0168; Kinney v. AIG Domestic Claims / Chartis, U.S. District Court, Central District of California, Case No. 8:10-cv-00399; Kizer v. Tristar Risk Management, Orange County Superior Court, Case No. 30-2014-00707394-CU-OE-CXC; Kleinberg v. Reeve Trucking Company, Inc., San Diego County Superior Court, Case No. 37-2015-00001601-CU-OE-CTL; Kove v. Old Republic Title, Alameda County Superior Court, Case No. RG09477437; Krellcom v. Medley Communications, Inc., San Diego County Superior Court, Case No. 37-2013-00050245-CU-OE-CTL; Ladd v. Extreme Recovery, LP, Contra Costa County Superior Court, Case No. MSC11-02790; Langille v. EMC, U.S. District Court, Southern District of California, Case No. 09-cv-0168; Lawson v. Marquee Staffing, Los Angeles County Superior Court, Case No. 37-2012-00103717-

CU-OE-CTL; Lazar v. Kaiser Foundation Health Plan, Inc., Santa Clara County Superior Court, Case No. 1-14-cv-273289; Lemmons v. Kaiser Foundation Hospitals, Inc., Sacramento County Superior Court, Case No. 34-2012-00125488; Levine v. Groeniger, Alameda County Superior Court, Case No. RG09476193; Linder v. OCWEN (In re Ocwen Federal Bank FSB Servicing Litig.) U.S. District Court, Central District California, Case No. 07cv501, U.S. District Court, Northern Dist. Illinois, Case No. MDL 1604; Litton v. Diebold, Incorporated, San Mateo County Superior Court, Case No. CIV524776; Lohn v. Sodexo, Inc. & SDH Services West, LLC, U.S. District Court Central District of California, Case No. 2:15-CV-05409; Lopez v. K-Mart, Ventura County Superior Court, Case No. BC351983; Louie / Stringer v. Kaiser, U.S. District Court, Southern District California, Case No. 08-cv-0795; Lucero v. Sears, U.S. District Court Southern District of California, Case No. 3:14-cv-01620-AJB; Lucero v. Kaiser Foundation Hospitals, Inc., San Diego County Superior Court, Case No. 37-2013-00075933-CU-OE-CTL; Magallanes v. TSA Stores, Inc., Santa Clara County Superior Court, Case No. 1-15-cv-283586; Magana v. El Pollo Loco, Inc., Orange County Superior Court, Case No. 30-2012-00613901-CU-OE-CXC; Maitland v. Marriott, U.S. District Court, Central District California, Case No. SACV 10-00374; Mann v. NEC Electronics America, Santa Clara County Superior Court, Case No. 109CV132089; Martinez v. Hydro-Scape Products, Inc., San Diego County Superior Court, Case No. 37-2014-00029157-CU-OE-CTL; Mathies v. Union Bank - Class Certification Granted, San Francisco County Superior Court, Case No. CGC-10-498077; McDermott v. Catalina Restaurant Group Inc., Orange County Superior Court, Case No. 30-2012-00574113-CU-OE-CXC; McPhail v. First Command, United States District Court for the Southern District of California, Case No. 05CV0179 IEG (JMA); Medina v. Universal Protection Service, LP, Santa Clara County Superior Court, Case No. BC572848; Meierdiercks v. 8x8, Inc., Santa Clara County Superior Court, Case No. 110CV162413; Metrow v. Liberty Mut. Managed Care LLC - Class Certification Granted, U.S. District Court Eastern District of California, Case No. 16-1133 JGB (Kkx); Meyer v. Thinktank Learning, Inc., Santa Clara County Superior Court, Case No. 1-15-cv-282698; Morales v. Wells Fargo Insurance Services USA, Inc., U.S. District Court Northern District of California, Case No. 3:13-cv-03867-EDL; Morse v. Marie Callender Pie Shop, U.S. District Court, Southern District California, Case No. 09-cv-1305; Moynihan v. Escalante Golf, Inc. & Troon Golf, LLC, San Diego County Superior Court, Case No. 37-2012-00083250-CU-OE-CTL; Muntz v. Lowe's HIW, San Diego County Superior Court, Case No. GIC880932; Najarian v. Macy's West Stores, Orange County Superior Court, Case No. 30-2010-00418401; Nelson v. Avon Products, Inc., Class Certification Granted, U.S. District Court for The Northern District of California, Case No. 13-cv-02276-BLF; Nguyen v. Wells Fargo Home Mortgage, Orange County Superior Court, Case No. 05 CC 00116; Ochoa v. Eisai, Inc., U.S. District Court, Northern District California, Case No. 3:11-cv-01349; Ogans v. Nationwide Credit, Inc., Sacramento County Superior Court, Case No. 34-2012-00121054; Ohayon v. Hertz, United States District Court, Northern District of California, Case No. 11-1662; Olvera v. El Pollo Loco, Inc., Orange County Superior Court, Case No. 30-2014-00707367-CU-OE-CXC; Orozco v. Illinois Tool Works Inc., Class Certification Granted, U.S. District Court, Eastern District of California, Case No. 14-cv-02113-MCE; Ortega v. Prime Healthcare Paradise Valley, LLC, San Diego County Superior Court, Case No. 37-2014-00011240-CU-OE-CTL; Patel v. Nike Retail Services, Inc., U.S. District Court Northern District of California, Case No. 3:14-cv-04781-RS; Patelski v. The Boeing Company, United States District Court, Southern District of New York; transferred to United States District Court, Eastern District of Missouri; Pearlman v. Bank of America, San Diego Superior Court; Perry v. AT&T, U.S. District Court, Northern District California, Case No. 11-cv 01488; Picus v. Wal-Mart Stores, U.S. District Court, District of Nevada, Case No. 2:07-CV-00682; Pittard v. Salus Homecare, U.S. District Court, Southern District California, Case No. 08 cv 1398; Port v. Southern California Permanente Medical Group, San Diego County Superior Court, Case No. 37-2007-00067538; Postema v. Lawyers Title Ins. Corp., Orange County Superior Court, Case No. 30-2010-00418901; Pratt v. Verizon, Orange County Superior Court, Case No. 30-2010-00430447; Proctor v. Ameriquet, Orange County Superior Court, Case No. 06CC00108; Ramirez v. Estenson Logistics, LLC, Orange County Superior Court, Case No. 30-2015-00803197-CU-OE-CXC; Ray

v. Lawyers Title, Fidelity National, Commonwealth Land Title, Chicago Title, Orange County Superior Court, Case No. 30-2010-00359306; Renazco v. Unisys Technical Services, L.L.C., San Francisco County Superior Court, Case No. CGC-14-539667; Reynolds v. Marlboro/Philip Morris U.S.A., United States Court of Appeals for the Ninth Circuit, Case No. 08-55114, U.S. District Court, Southern District of California, Case No. 05 CV 1876 JAH; Rezec v. Sony, San Diego Superior Court; Rix v. Lockheed Martin Corporation, U.S. District Court, Southern District of California, Case No. 09-cv-2063; 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); Ritchie v. Mauran Ambulance Services, Inc., Los Angeles County, Case No. BC491206; Rivers v. Veolia Transportation Services, Class Certification Granted, Sonoma County Superior Court, Case No. SCV 255350; Roeh v. JK Hill, San Diego Superior Court, Case No. 37-2011-00089046; Rodriguez v. Protransport-1, LLC, San Francisco County Superior Court, Case No. CGC-12-522733; Romero v. Central Payment Co., LLC, Marin County Superior Court, Case No. CIV 1106277; Salas v. Evolution Hospitality, LLC, San Diego County Superior Court, Case No. 37-2012-00083240-CU-OE-CTL; Salem v. Alliance Human Services, Inc., San Diego County Superior Court, Case No. CIVRS1401129; Sanchez v. Beena Beauty Holding, Inc. d/b/a Planet Beauty, Los Angeles County Superior Court, BC566065; Santone v. AT&T – Settled United States District Court, Southern District of Alabama; Santos v. Sleep Train (Sleep Train Wage and Hour Cases), Orange County Superior Court, Case No. 30-2008-00214586, San Francisco County Superior Court, Case No. JCCP 4553; Saravia v. O.C. Communciations, Sacramento County Superior Court, Case No. 34-2015-00180734; Sawyer v. Vivint, Inc., U.S. District Court, Northern District of Illinois, Case No. 1:14-cv-08959; Sayaman v. Baxter Healthcare, U.S. District Court, Central District of California, Case No. CV 10-1040; Schuler v. Ecolab, Inc., U.S. District Court, Southern District of California, Case No. 3:10-cv-02255; Schulz v. Qualxserv, LLC / Worldwide Techservices - Class Certification Granted, U.S. District Court, Southern District of California, Case No. 09-cv-0017; Serrato v. Sociedad Textil Lonia, Corp., San Diego County Superior Court, Case No. 37-2012-00101195-CU-OE-CTL; Shrivastara v. Fry's Electronics, Santa Clara County Superior Court, Case No. 111cv192189; Sierra v. Oakley Sales Corp., Orange County Superior Court, U.S. District Court Central District of California; U.S. Court of Appeals 9th Circuit; Sirota v. Swing-N-Slide, Wisconsin District Court, County of Rock Wisconsin, Case No. 95CV726J; Small v. Kaiser Foundation Hospitals - Settled San Diego County Superior Court, Case No. 37-2011-00099011-CU-OE-CTL; Smith v. Kaiser Foundation Hospitals, U.S. District Court, Southern District of California, Case No. 08-cv-02353; Smith v. Fedex Ground Package system, Inc., Alameda County Superior Court, Case No. RG14734322; Sones v. World Savings / Wachovia; U.S. District Court, Northern District of California, Case No. 3:08-cv-04811; Spradlin v. Trump, U.S. District Court, District of Nevada, Case No. 2:08-cv-01428; Steele v. Kaiser Foundation Health Plan, U.S. District Court, Northern District of California, Case No. 07-5743; Steffan v. Fry's Electronics, Inc., Santa Clara County Superior Court, Case No. 1-13-CV-254011; Steroid Hormone Product Cases, Los Angeles Superior Court, JCCP4363; Strauss v. Bayer Corporation, United States District Court, District of Minnesota; Sustersic v. International Paper Co., Orange County Superior Court, Case No. 30-2009-00331538; Sutton v. Seasons Hospice & Palliative Care of California, Inc., Los Angeles County Superior Court, Case No. BC590870; Swartout v. First Alarm Security & Patrol, Inc., Santa Clara County Superior Court, Case No. 112-cv-231989; Talamantez v. The Wellpoint Companies, Inc., U.S. District Court, Central District of California, Case No. 12-cv-08058; Tan v. California State Automobile Assn. - Class Certification Granted, U.S. District Court, Central District California, Case No. 07cv1011, Orange County Superior Court, Case No. 30-2008-00231219; Tauber v. Alaska Airlines, et al., Los Angeles Superior Court; Thai v. Staff Assistance, Inc., Los Angeles County Superior Court, Case No. BC567943; Thomas v. Stanford Health Care d/b/a Stanford University Medical Center, Santa Clara County Superior Court, Case No. 1-14-cv-273362; Thomas-Byass v. Michael Kors Stores (California), Inc., U.S. District Court Central District of California, Case No. 5:15-cv-00369-JGB; Trujillo v. LivHome, Orange County Superior Court, Case No. 30-2008-00100372, San Diego

County Superior Court, Case No. JCCP4570; Tull v. Stewart Title, U.S. District Court, Southern District California, Case No. 08-CV-1095; Turner v. C.R. England, U.S. District Court Central District of California, Case No. 5:14-cv-02207-PSG; Turner v. Ampac Fine Chemicals, LLC, Sacramento County Superior Court, Case No. 34-2015-00176993; Valadez v. Schering-Plough, U.S. District Court, Southern District California, Case No. 10-CV-2595; Van Gorp v. Ameriquest Mortgage/Deutsche Bank, U.S. District Court, Central District of California, Case No. SACV05-907 CJC (Anx); Varela v. The Walking Company, Los Angeles County Superior Court, Case No. BC562520; Veloz v. Ross Dress For Less, Inc., Los Angeles County Superior Court, Case No. BC485949; Vogel v. Price-Simms, Inc., Santa Clara County Superior Court, Case No. 114CV261268; Vrab v. DNC Parks & Resorts at Tenaya, Inc., Mariposa County Superior Court, Case No. 0010225; Vultaggio-Kish v. Golden State Lumber, Inc., San Mateo County Superior Court, Case No. CIV 51661; Wadhwa v. Escrow Plus, Los Angeles Superior Court; Waldhart v. Mastec North Amercia, Inc., San Bernardino County Superior Court, Case No. CIVDS1419318; Walker v. Brink's Global Services USA, Inc. & Brinks Incorporated, Los Angeles County Superior Court, Case No. BC564369; Walsh v. Apple, Inc., U.S. District Court, Northern District California, Case No. 08-04918; Weinman v. Midbar Condo Development (Las Vegas One), U.S. District Court, District of Nevada, Case No. 2:08-cv-00684; Weltman v. Ortho Mattress - Class Certification Granted, U.S. District Court, Southern District California, Case No. 08-cv-0840, Orange County Superior Court, Case No. 30-2009-00327802; West v. Jerome's Furniture Warehouse, Sacramento County Superior Court, Case No. 34-2013-00147707-CU-OE-GDS; Wheat v. Jerome's Furniture Warehouse, San Diego County Superior Court, Case No. 37-2012-00094419-CU-OE-CTL; Wietzke v. Costar Realty, U.S. District Court, Southern District California, Case No. 09-cv-2743; Williams v. Lockheed Martin Corporation, U.S. District Court, Southern District California, Case No. 3:09-cv-01669; Wilson v. Wal-Mart Associates, Inc., U.S. District Court Central District of California, Case No. 8:14-cv-1021-FMO; Winston v. Lemore Transportation, Inc., Contra Costa County Superior Court, Case No. C-15-00897; Wise v. Cubic, U.S. District Court, Southern District California, Case No. 08-cv-2315; Witman v. Level 3 Communications, San Diego County Superior Court, Case No. 37-2012-00091649-CU-OE-CTL; Yam v. Kaiser Foundation Hospitals, U.S. District Court, Northern District California, Case No. 10-cv-05225-SBA; Zurlo v. Mission Linen, U.S. District Court, Central District, Case No. 08cv1326; Baxt v. Scor U.S., Delaware Court of Chancery; Bronson v. Blech Securities - Settled U.S. District Court, Southern District of New York; Castro & Cardwell v. B & H Education, Inc., Los Angeles Superior Court Case No. BC456198; Dibella v. Olympic Financial, U.S. District Court, District of Minnesota; Doyle v. Lorna Jane USA, Inc., Los Angeles County Superior Court, Case No. BC526837; Estrella v. B-Per Electronic, Inc. & My Wireless, Inc., San Diego County Superior Court, Case No. 37-2013-00048951-CU-OE-CTL; Ferrari v. Read-Rite, U. S. District Court, Northern District of California; Forever 21 Wage and Hour Cases - Settled San Diego County Superior Court, JCC Proceeding No. 4745; Hart v. United States Tobacco Co., Los Angeles Superior Court; In re Bank of America Wage and Hour Employment Practices Litigation, U.S. District Court, District of Kansas, Case No. MDL 2138; In re Walgreen Co. Wage and Hour Litigation, U.S. District Court, Central District of California, Case No. 11-cv-07664; Jackson v. Fresh & Easy Neighborhood Market Inc., Los Angeles County Superior Court, Case No. BC497964; U.S. Bankruptcy Court District of Delaware Case No. 13-12569 (KJC); Jordan/Ramos v. DMV -Sacramento County Superior Court; Kensington Capital v. Oakley, U. S. District Court, Southern District of California; Kensington Capital v. Vesta, U. S. District Court, Northern District of Alabama; Lopez v. Tire centers, LLC, U.S. District Court Northern District of California, Case No. 3:13-cv-05444-JCS; Miller v. Western Athletic Clubs, LLC, Santa Clara County Superior Court, Case No. 112-cv-228670; Moffett v. WIS International, San Diego County Superior Court, Case No. 37-2011-00099909-CU-OE-CTL; Perez v. Urban Outfitters, Inc., U.S. District Court Northern District of California, Case No. 13-cv-02628-JSW; Ridgewood Capital Management v. Gensia, U.S. District Court, Southern District of California, #CV-92-1500H; Sandoval v. Redfin Corporation, U.S. District Court Northern District, Case No. 3:14-cv-04444-SC; Shurman v. Scimed, State of Minnesota District Court, Fourth District,

#94-17640; Sioson v. AMP Holding, Inc., Orange County Superior Court, Case No. 30-2013-00663825; Slatton v. G.E. Capital Mortgage Services, Camden County Superior Court, New Jersey, #CAML0256198; Somkin v. Molten Metal, U.S. District Court, District of Massachusetts, #9710325PBS; Sparks v AT&T, Illinois District Court - Madison County; Sullivan v. Lyon Management Group, Orange County Superior Court, Case No. 30-2013-00649432-CU-BT-CXC; Herencia v. Alexander's Steakhouse, Inc. – San Francisco County Superior Court, Case No. CGC-16-550551; Reinhardt v. Beverly Fabrics, Inc. – Sonoma County Superior Court, Case No. SCV-257217; DeBettencourt v. Interstate realty Management Company – San Joaquin County Superior Court, Case No. STK-CV-UOE-2015-0011942; Torres v. Bhandal Bros, Inc. – Santa Cruz County Superior Court, Case No. 16CV01555; Rodriguez v. El Toro Medical Investors Limited Partnership – U.S. District Court, Central District of California, Case No. 16-CV-00059-JLS-KES; Velez v. Timec Specialty Services, Inc. & Transfield Services – Los Angeles County Superior Court, Case No. BC614318; Henry v. Central Freight Lines, Inc. – U.S. District Court, Eastern District of California, Case No. 16-CV-00280-JAM-EFB; Taylor v. TIC – The Industrial Company – U.S. District Court, Central District of California, Case No. 16-CV-00186-VAP(SPX); Harvey v. Sears, Roebuck And Co. – Sacramento County Superior Court, Case No. 34-2017-00207556; Tapia v. Panda Express, LLC et al. – Los Angeles County Superior Court, JCCP No. 4919; Severson v. Lowe's HIW, Inc. – Sacramento County Superior Court, Case No. 34-2016-00189508; Bendon v. DTG Operations, Inc. - U.S. District Court, Central District of California, Case No. 16-CV-00861-FMO-AGR; Talavera v. ACS Dataline, LP – Los Angeles County Superior Court, Case No. BC617159; McHenry v. Prologix Distribution Services (West), LLC – Los Angeles County Superior Court, Case No. BC608948; Stone v. Prologistics Distribution, Inc. – Orange County Superior Court, JCCP No 4881; Easton v. Handy Technologies, Inc. – San Diego County Superior Court, Case No. 37-2016-00004419-CU-OE-CTL; Singh v. Total Renal Care, Inc. – San Francisco County Superior Court, Case No. CGC-16-550847; Conners v. Rag Traders Melrose, LLC – Los Angeles County Superior Court, Case No. BC591413; Saporito v. Space Explorations Technologies Corporation, Los Angeles Superior Court, Case No. BC554258; Calhoun v. Celadon Trucking Services, Inc., U.S. District Court, Central District of California, Case No. 16-CV-01351-PSG-FFM; Conners v. Mission Valley Kilt, LLC - San Diego County Superior Court, Case No. 37-2015-00036888-CU-OE-CTL; Shibley v. New Prime, Inc. - U.S. District Court, Central District of California, Case No. 17-CV-00321-DOC; Lawrenz v. Blacktalon Enterprises, Inc. - Sonoma County Superior Court, Case No. SCV-258205; Jamison v. Fitness 19 CA 121, LLC - Solano County Superior Court, Case No. FCS046697; Brooks v. Archer Trucking, Inc. – Mendocino County Superior Court, Case No. SCUK-CVG-16-67106; Montgomery v. New Prime, Inc. - San Bernardino County Superior Court, Case No. CIVDS1611884; Mills v. Core-Mark International, Inc. – San Diego County Superior Court, case No. 37-2016-00009669-CU-OE-CTL; Lopez v. Networked Insurance Agents, LLC – Orange County Superior Court, Case No. 30-2016-00843587-CU-OE-CXC; Yberri v. Agent Provocateur, Inc. – Los Angeles County Superior Court, Case No. BC620413; Woodard v. BKD Twenty-One Management Company, Inc. – San Diego County Superior Court, Case No. 37-2016-00009682-CU-OE-CTL; Gallagher v. H.H. Restaurant, Inc. – San Diego County Superior Court, Case No. 37-2016-00031247-CU-OE-CTL; San Nicolas v. West Covina Corporate Fitness, Inc. – Los Angeles County Superior Court, Case No. BC16304; Summerlin v. Maplebear Inc., d/b/a Instacart – Los Angeles County Superior Court, Case No. BC 603030; Padilla v. Sutter West Bay Hospitals – San Mateo County Superior Court, Case No. CIV538977; Quagliariello v. Victory Entertainment, Inc. – Los Angeles County Superior Court, Case No. BC620273; Mohammad v. Tee It Up LLC – Contra Costa Superior Court, Case No. C16-01188; Pucilowski v. Esurance Insurance Services, Inc. – Placer County Superior Court, Case No. SCV0038790; Arias v. Alamitos Enterprises, LLC – Orange County Superior Court, Case No. 30-2016-00865183-CU-OE-CXC; Orzano v. Hazelwood Enterprises, Inc. - San Diego County Superior Court, Case No. 37-2016-00029231-CU-OE-CTL; Tejero v. Firstmed Ambulance Services, Inc. – Orange County Superior Court, Case No. 30-2016-00885355-CU-OE-CXC; Artis v. T-W Transport, Inc. – San Diego County Superior Court, Case No. 37-2016-00013010-CU-OE-CTL; Searles v.

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 Court, 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

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
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

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.

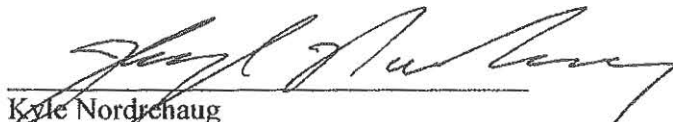
Dated: Mar 19, 2022

~~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.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<<__>>. See the explanation in Section 5 below. If you do nothing, you will be considered a Participating Class Member and will be part of the Settlement as explained more fully below. After final approval 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.
Exclude Yourself	To exclude yourself, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement and you will not be bound by the Settlement. However, if you are an Aggrieved Employee who opts out, you will still be paid your allocation of the PAGA Payment and 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. If you choose to do so, you must notify the Settlement Administrator as explained in Section 7 below.
Object	Write to the Court about why you do not agree with the settlement or appear at the Final Approval Hearing to make an oral objection. Instructions are provided in Section 8 below. The Court will hold a Final Approval Hearing at _____ on _____, at the Alameda County Superior Court, Dept ____. This hearing may change as explained below in Section 9.

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
Website: 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 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 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

PRELIMINARY APPROVAL ORDER

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
28

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'
28

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
27
28

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: _____

HON. BRAD SELIGMAN
JUDGE, SUPERIOR COURT OF CALIFORNIA

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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
27
28

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
28

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

10 3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
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
28

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
27
28

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
28

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
20
21
22
23
24
25
26
27
28

1 **BLUMENTHAL NORDREHAUG BHOWMIK**
2 **DE BLOUW LLP**

3 NORMAN B. BLUMENTHAL (SB# 068687)

4 Norm@bamlawca.com

5 KYLE R. NORDREHAUG (SB# 205975)

6 kyle@bamlawca.com

7 APARAJIT BHOWMIK (SB# 248066)

8 AJ@bamlawca.com

9 2255 Calle Clara

10 La Jolla, CA 92037

11 Telephone: 1(858) 551-1223

12 Facsimile: 1(858) 551-1232

13 Attorneys for Plaintiff

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF ALAMEDA

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

19 Plaintiffs,

20 v.

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

23 Defendants.

CASE NO.: **RG21102661**

**STIPULATION TO MODIFY CLASS
ACTION AGREEMENT**

Hearing Date: August 9, 2022

Hearing Time: 3:00 p.m.

Judge: Hon. Brad Seligman

Dept.: 23

Action Filed: June 23, 2021

Trial Date: None Set

1 **IT IS HEREBY STIPULATED AND AGREED** by and between Plaintiff Raymond
2 Huerta (“Plaintiff”) and Defendant Splay, Inc. (“Defendant”) (collectively “the Parties”), to amend
3 and modify the Class Action Settlement Agreement (the “Agreement”) and the exhibits thereto,
4 filed on May 26, 2022 as Exhibit 1 to the Declaration of Kyle Nordrehaug, with this Stipulation to
5 Modify the Class Action Settlement Agreement (“Stipulation”).

6 WHEREAS, the Court’s tentative ruling served for July 12, 2022 identified an issue to be
7 corrected in the Agreement;

8 WHEREAS, Sections III(49) and III(52) of the Agreement provides for the Parties’
9 representatives to modify the Agreement in writing and to execute documents required to
10 effectuate the terms of this Agreement including any amendments to this Agreement;

11 WHEREAS, the Parties have agreed to modify the Agreement to address the Court’s
12 concern regarding the disposition of any funds from uncashed checks;

13 NOW THEREFORE, the Parties agree to modify and amend the Agreement to address the
14 issue raised by the Court as follows:

15 1. Section III(42) of the Agreement is revised to read as follows:

16 42. **Uncashed Settlement Checks.** Before checks are mailed, the Settlement
17 Administrator shall update address information through the National
18 Change of Address database. A Participating Class Member or Aggrieved
19 Employee must cash his or her Settlement Share check within 180 days
20 after it is mailed to him or her. The expiration date of the check must be
21 conspicuously printed on the check. If a check is returned to the Settlement
22 Administrator or not cashed within 120 days after the last mailing, the
23 Settlement Administrator will make all reasonable efforts to re-mail it to the
24 affected individual at his or her correct address by use of available email
25 addresses, phone numbers, social security numbers, credit reports, LinkedIn
26 and Facebook. If a Participating Class Member’s or Aggrieved Employee’s
27 check is not cashed within 120 days after its last mailing to the affected
28 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 a Court-approved *cy pres*
beneficiary consistent with California Code of Civil Procedure § 384. The
Parties agree to propose Children’s Advocacy Institute as the *cy pres*
beneficiary of this Settlement. Pursuant to California Code of Civil
Procedure § 382.2, the attorneys signing this Agreement hereby notify the

1 Court that they and their respective firms have no relationship with or
2 connection to the *cy pres* recipient.

3
4 2. The Class Notice attached to the Agreement is revised to the form attached hereto
5 as Exhibit A and this form of Class Notice attached hereto shall be used in lieu of the Class Notice
6 attached to the Agreement.

7
8
9 DATED: July 19, 2022

CATHY ARIAS LAW

10
11 By: 

12 CATHY L. ARIAS

13 Attorneys for Defendant SPLAY, INC.

14 DATED: July 19, 2022

15 BLUMENTHAL NORDREHAUG BHOWMIK DE
16 BLOUW LLP

17
18 By: 

19 KYLE NORDREHAUG

20 Attorneys for Plaintiff RAYMOND HUERTA
21
22
23
24
25
26
27
28

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.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<<__>>. See the explanation in Section 5 below. If you do nothing, you will be considered a Participating Class Member and will be part of the Settlement as explained more fully below. After final approval 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.
Exclude Yourself	To exclude yourself, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement and you will not be bound by the Settlement. However, if you are an Aggrieved Employee who opts out, you will still be paid your allocation of the PAGA Payment and 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. If you choose to do so, you must notify the Settlement Administrator as explained in Section 7 below.
Object	Write to the Court about why you do not agree with the settlement and/or appear at the Final Approval Hearing to make an oral objection. Instructions are provided in Section 8 below. The Court will hold a Final Approval Hearing at _____ on _____, at the Alameda County Superior Court, Dept ____. This hearing may change as explained below in Section 9.

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, or both in writing and 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
Website: 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 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 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 a Court-approved *cy pres* beneficiary consistent with California Code of Civil Procedure § 384, which the Parties propose to be Children's Advocacy Institute, a non-profit organization engaged in child advocacy, subject to Court approval.
- If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.