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14 Attorneys for the Plaintiffs

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 COUNTY OF SAN DIEGO-CENTRAL DIVISION

17 ALEKSANDR POVARNITSON and)
 18 BRADLEY BRIGHT, individually and)
 19 on behalf of all others similarly situated,)

20 Plaintiffs,

21 vs.

22 ELECTRONIC CONTROL SYSTEMS,)
 23 LLC, a Delaware limited liability)
 24 company dba ALBIREO ENERGY,)
 25 LLC; ALBIREO ENERGY, LLC, a)
 26 Michigan corporation; and DOES 1-50,)

27 Defendants.

Case No.: 37-2021-00043575-CU-OE-
CTL

Judge: Hon. Katherine Bacal
Dept.: 69

**PLAINTIFFS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF CLASS ACTION
SETTLEMENT**

Judge: Hon. Katherine Bacal
Dept.: C-69

Hearing Date: September 21, 2023
Hearing Time: 1:30 p.m.

[Decs. of Thomas D. Rutledge and Ian
Pancer, [Proposed] Order, and Not. of
Mot. filed concurrently herewith]

1 **I. INTRODUCTION.**

2 Plaintiffs very respectfully request court approval of the Settlement¹ of this Fair
3 Credit Reporting Act (FCRA) and wage and hour class and Private Attorney General
4 Act (PAGA) action. The Settlement establishes a \$485,000 non-reversionary Gross
5 Settlement Fund for the benefit of the Class, which consists of three subclasses.
6 Plaintiffs are informed there are approximately 819 Class Members in “Subclass A”
7 (the FCRA Class) who will receive a net recovery of approximately \$53 per person.
8 Plaintiffs are informed there are approximately 358 Class Members in “Subclass B”
9 (the Labor Code Class) who will receive a net recovery of approximately \$542 per
10 person. Plaintiffs are informed there are approximately 247 Class Members in
11 “Subclass C” (the PAGA Class) who will receive a net recovery of approximately \$15
12 per person. Class Members will be paid *automatically*—no need to submit a claim.

13 The proposed Settlement is fair, reasonable, and provides Class Members with
14 outstanding relief. Plaintiffs very respectfully request this Honorable Court
15 preliminarily approve the settlement.

16 **II. FACTUAL BACKGROUND.**

17 Plaintiff Aleksandr Povarnitson applied to work for the Defendants. During the
18 application process, Plaintiff alleges that Defendants used an unlawful disclosure
19 form to procure Plaintiff’s investigative consumer report in violation of the Fair
20 Credit Reporting Act (FCRA). As alleged in the First Amended Complaint (FAC),
21 Defendants provided Plaintiff Povarnitson with a document containing unlawful
22 extraneous information in violation of the FCRA. Plaintiff Povarnitson alleges that
23 Defendants used the same or similar form to procure consumer reports on other Class
24 Members as part of its standard practice and policy. (FAC, ¶¶ 1-58, 149-162.)
25
26

27 ¹ Unless otherwise defined herein, capitalized terms have the same meanings as those set forth in the Parties’
28 Class Action Settlement Agreement (“Agreement,” “Settlement,” or “Settlement Agreement”), attached to the
Declaration of Thomas D. Rutledge as Exhibit 1.

1 The FAC also alleges that Plaintiff Povarnitson and Bradley Bright are
2 Defendants' former employees. During their employment, Plaintiffs also contend,
3 among other things, that Defendants underpaid their overtime, failed to pay
4 minimum/regular/prevaling wages, issued unlawful wage and earning statements,
5 committed violations of the meal and rest break laws, failed to pay wages in a timely
6 manner, and failed to reimburse them. (FAC, ¶¶ 1-21, 59-114, 171-267.)

7 **III. PROCEDURAL HISTORY & SETTLEMENT NEGOTIATIONS.**

8 On October 13, 2021, Plaintiff Povarnitson commenced this action. (ROA #1.)
9 His complaint alleged individual and class claims for willful violations of the FCRA
10 by Defendants in connection with its procurement and use of consumer reports
11 procured on its employees. Plaintiff also filed an individual claim under the California
12 Investigative Consumer Reporting Agencies Act, Civil Code § 1786, *et seq.*
13 (ICRAA). (Complaint, ROA #1.)

14 On November 15, 2021, Defendants filed a removal action to the U.S. District
15 Court of the Southern District of California. (ROA #10.) On December 13, 2021,
16 Plaintiffs filed a motion to remand. On January 19, 2022, the U.S. District Court
17 granted Plaintiffs' motion and ordered the case be remanded to the Superior Court of
18 California. (Case 3:21-cv-01948-AJB-JLB Doc. No. 11; ROA #18.)

19 During the prosecution of the case, Plaintiffs obtained the Class List following
20 a *Belaire West* notice process and spent months conducting a survey of the putative
21 Class to determine what they witnessed in the workplace. Plaintiffs' Counsel
22 interviewed scores of witnesses, current and former employees who worked for the
23 Defendants. Many of them witnessed how Defendants committed a variety of Labor
24 Code violations. One of these witnesses was Plaintiff Bright, who retained Plaintiffs'
25 Counsel pursue the claims alleged in this action. The survey Plaintiffs' Counsel
26 conducted was instrumental towards Plaintiffs' analysis of liability and damages.
27 (Rutledge Decl., ¶¶ 25-29.)
28

The Parties also engaged in extensive written discovery and had multiple discussions over a two-year period regarding the merits of Plaintiffs' claims and the underlying facts, as well as Defendants' potential defenses. Defendants provided information concerning the FCRA disclosure forms Defendants used; Defendants' employee handbooks; 100% of all Class Members' payroll information, timesheets, and similar records; records concerning Defendants' hiring practices including, the type of correspondence Defendants sent to Plaintiffs and Class Members regarding the background check process; the number of individuals in the putative Class; and the number of workweeks putative Class Members worked and how many consumer reports the Defendants procured, among other things. This information was critical for Plaintiffs' analysis of liability and damages. (Rutledge Decl., ¶¶ 30-32.)

On November 16, 2022, after considerable debate, the Parties participated in an all-day private mediation before the Honorable Steven Denton (Ret.) Before the mediation, the parties submitted detailed briefs outlining their respective positions. At the conclusion of the mediation, counsel reached a handshake deal. On June 14, 2023, all Parties signed the Settlement Agreement. (Rutledge Decl., ¶¶ 33-36 and Ex. 1.)

On May 25, 2023, Plaintiffs, subject to a stipulation, filed their First Amended Complaint. (ROA #30.) This is the operative Complaint.

IV. THE SETTLEMENT AGREEMENT.

A. Overview of The Settlement Terms.

The Parties have agreed to a full and complete Settlement of this matter that provides relief for members of the proposed Settlement Class. The Settlement Class consist of the following three subclasses:

a. The FCRA Class shall consist of all persons residing in the United States regarding whom Defendants ran a background check for employment purposes during the period from October 13, 2016 to December 31, 2022 (the "FCRA Class Period").

b. The Labor Code Class shall consist of all current or former persons Defendants employed in the State of California during the period from

August 7, 2016 to December 31, 2022 (the “Labor Code Class Period”).

c. The PAGA Representative Action Class shall consist of all current or former persons Defendants employed in the State of California during the period from December 7, 2019 to December 31, 2022 (the “PAGA Representative Action Class Period”).

(Agreement, ¶ 3 p. 3.)

In consideration for the release of the Class Members’ claims, Defendants will pay the gross sum of \$485,000 into a Gross Settlement Fund for the benefit of the Class. Under no circumstances will any portion of this fund revert to the Defendants. The Gross Settlement Fund shall increase or decrease proportionately if the number of individuals exceeds or falls below the Defendants’ estimates by ten percent or more. After Court-approved deductions for attorneys’ fees, expenses, claims administration costs, Class Representative service awards and individual settlement payments, and payment to the Labor Workforce Development Agency (LWDA), the remaining funds will be automatically distributed *pro rata* to all Class Members who do not timely and validly exclude themselves from the Class. Should any funds remain after the close of the check negotiation period, those residual funds shall be distributed consistent with California Code of Civil Procedure § 384 to Hire Heroes USA. The Parties have selected Phoenix Settlement Administrators, an experienced and independent third party, as the Settlement Administrator. (Agreement, ¶¶ 6-14.)

B. Fairness of Allocation to the Subclasses.

The Settlement Agreement provides that allocation of the Net Settlement Fund shall be distributed as follows: 20% of the Net Settlement Fund will be allocated equally among Settlement Class A, 80% of the Net Settlement Fund will be allocated equally among Settlement Class B, and \$3,750 of the amount attributed to the PAGA (i.e., 25% of \$11,250) settlement will be allocated equally among Settlement Class C. (Agreement, ¶ 13.)

The 20% allocation to Subclass A is based on the low damage provisions of the FCRA, which generally provides only \$100 to \$1,000 per negatively affected person

1 unless Class Member can prove actual damages (something very difficult in FCRA
2 cases). The lower allocation to Subclass A is also attributed to the recent case law on
3 this subject that requires plaintiff-consumers to prove concrete harm. *See Limon v.*
4 *Circle K Stores Inc.*, 84 Cal. App. 5th 671 (2022). These concerns were accounted for
5 at the outset of the settlement negotiations and provide fair and reasonable respective
6 allocations to Class Members. (Rutledge Decl., ¶¶ 37-41.)

7 **C. Form of Notice.**

8 Class Members will receive one or both versions of the Notice of Class Action
9 Settlement (the “Notice”) depending the Subclass they are in, copies of which are
10 attached as **Exhibit 2** to the Declaration of Thomas D. Rutledge filed concurrently
11 with these papers. Before mailing the Notice, the Settlement Administrator shall
12 update all Class Member addresses using the National Change of Address System.
13 The Notice informs Class Members of information about the Settlement, including the
14 monetary terms, the nature of the claims and the release, and Class Members’ right to
15 object to or opt-out of the Settlement. The Notice will further inform Class Members
16 how to obtain additional information about the Settlement. In the event a Notice is
17 returned to the Settlement Administrator, the Settlement Administrator will attempt to
18 locate another address for the Class Member. (Agreement, ¶¶ 9, 17.)

19 The proposed Notice satisfies Cal. Rules of Court, rule 3.766(d) because it
20 “fairly apprise[s] the prospective members of the class of the terms of the proposed
21 settlement and of the options that are open to them in connection with the
22 proceedings.” *7-Eleven Owners for Fair Franchising v. Southland Corp.*, 85 Cal.
23 *App.* 4th 1135, 1159 (2000). Plaintiffs very respectfully request that the Court
24 approve the Notice.

25 **D. Opt-Outs and Objections.**

26 The Notice will inform all Class Members of their right to opt-out of or object
27 to the Settlement, as well as the associated procedures and deadlines. Class Members
28 who opt-out must send the Settlement Administrator, in a timely manner, written

notice indicating their desire to opt-out. The opt-out request must contain the person's name, address, telephone number, and last four digits of their social security number. To object, a Class Member must serve the Settlement Administrator with a timely written statement stating the reason for objecting before 21 days of the Final Approval hearing, the objector's name, address, and telephone number. The objection must be in writing, include the case name and number, and the grounds for the objection. The Settlement Administrator will serve copies of any objections on counsel, who shall file them with the Court. (Agreement, ¶ 17.)

E. Attorneys' Fees, Costs, and the Named Plaintiffs' Service Awards.

The Settlement Agreement contemplates Plaintiffs' Counsel moving the Court for attorneys' fees in an amount not to exceed 33.33 % of the Gross Settlement Fund and reasonable litigation costs not to exceed \$30,000. Plaintiffs' Counsel will also move the Court for service awards in the amount of \$5,000 each to Named Plaintiffs. The Settlement Agreement also provides Plaintiff with \$10,000 in additional compensation to each to Named Plaintiffs for their personal claims in exchange for a Civil Code § 1542 release. These amounts along with settlement administration costs will be deducted from the Gross Settlement Fund before distribution to Class Members. (Agreement, ¶¶ 5, 8, and 9.)

F. Estimated Allocation of The Gross Settlement Fund.

The Parties estimate the Gross Settlement Fund will be allocated as follows:

Gross Settlement	\$485,000
Litigation Costs	(\$30,000)
Fees (33%)	(\$161,651)
Incentive Awards to Named Plaintiffs	(\$10,000)
1542 Awards to Named Plaintiffs	(\$20,000)
Est. Claims Administrator Costs	(\$30,000)
LWDA	(\$11,250)
Subtotal	(\$262,901)

Net Settlement Amount **\$222,100**

Subclass A (FCRA) \$44,420

Subclass B (Labor) \$177,680

Subclass A (PAGA) \$3,750

V. STANDARD OF REVIEW.

“Public policy generally favors the compromise of complex class action litigation.” *In re Cell Phone Termination Fee Cases*, 193 Cal. App. 4th 298 (2009). At the preliminary approval stage, the Court need only determine whether the proposed Settlement is within the range of reasonableness, and thus whether notice to the class of the settlement terms and conditions and the scheduling of a formal fairness hearing are worthwhile. *See* Cal. Rules of Court, rule 3.769(c); Newberg on Class Actions § 13:13 (5th ed.) (“[C]ourts will grant preliminary approval where the proposed settlement is neither illegal nor collusive and is within the range of possible approval.”). In this context, courts generally do not address whether the settlement is ideal or the best outcome, but only whether the settlement is fair, adequate, free from collusion and consistent with plaintiff’s fiduciary obligations to the class. *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116 (2008).

A. The Settlement Terms Are Fair, Reasonable, and Adequate.

“In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant factors, such as the strength of Plaintiff’s case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.” *Wershba v. Apple Computers, Inc.*, 91 Cal. App. 4th 224, 233 (2001). A presumption of fairness exists where the settlement is reached through arms-length bargaining. *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794 (1996).

1 **1. The Settlement Was Reached After Negotiations with Counsel.**

2 The Settlement was reached only after extensive arm's-length settlement
3 negotiations that took place over a period of months. During the Parties' settlement
4 discussions, the Parties explored all aspects of this litigation, including Defendants'
5 defenses to liability and class certification. Additionally, attorneys' fees and a service
6 payment for the Plaintiffs were not discussed until all other material settlement terms
7 had been agreed upon, eliminating the possibility of a trade-off between
8 compensation for the Class and compensation for Plaintiffs' Counsel or the Plaintiffs.
9 (Rutledge Decl., ¶ 41.) This Settlement is, therefore, entitled to a presumption of
10 fairness. *See Dunk*, 48 Cal. App. at 1802.

11 **2. The Amount of the Settlement Is Significant.**

12 Defendants agree to pay \$485,000. On a net per-person basis and depending on
13 where they fall under the Class definition, the Settlement will provide Class Members
14 with a recovery of roughly \$15 per person on the low side to \$542 on the high side or
15 more if they are in more than one Subclass. This Class recovery is *well* within the
16 range of reason. For a full discussion of Plaintiffs' Counsel's reasoning consistent
17 with the *Kullar* analysis, please review Rutledge Decl., ¶¶ 42-98.

18 **3. The Risk of Litigation and Maintaining Class Status Support**
19 **Settlement.**

20 The impressive nature of this recovery comes into even sharper focus when
21 considering the risks of further litigation. Plaintiffs had yet to certify a class. Further,
22 Plaintiffs believes it is highly likely that, had this litigation proceeded, Defendants
23 would move for summary judgment on many grounds, such as the Plaintiffs could not
24 prove their FCRA claims because they did not suffer actual damages as required
25 under *Limon*. Moreover, Plaintiffs believe Defendants would have argued the meal
26 and rest break claims would require too many individualized inquiries and that
27 Plaintiffs' PAGA case was unmanageable, among many other defenses. Defendants
28 likewise contested the viability of Plaintiffs' reimbursement claims related to cell

1 phone usage, arguing its employees’ work use of phones, if any, was substantially less
2 than Class Members’ personal usage and, therefore, Defendants maintain they are not
3 liable for Class Members’ personal use of their cell phones. These and many other
4 defenses Defendants raised and continue to assert played a large part in the settlement
5 amount. (Rutledge Decl. ¶¶ 42-98.)

6 **4. The Discovery Obtained and Stage of Proceedings Supports**
7 **Settlement.**

8 Plaintiffs actively litigated this action. Among other things, Plaintiffs obtained
9 access to the Class List and conducted a time-consuming survey of the Class. Leading
10 up to the mediation, the Parties exchanged documents and 100% of the Class
11 Members’ payroll information Plaintiffs needed to measure damages and assess
12 liability. The parties went into the settlement conference with a good understanding of
13 the critical issues and the relevant evidence. (Rutledge Decl., ¶¶ 42-98.) This factor
14 also supports approval of the Settlement.

15 **5. The Views and Experience of Counsel Support Settlement.**

16 The Parties are represented by attorneys who have significant experience in
17 class action litigation and settlements. It is the view of Plaintiffs’ Counsel that the
18 Settlement is fair, adequate, and reasonable. (Rutledge Decl., ¶¶ 3-24; Pancer Decl., ¶
19 13.) Courts typically defer to the judgment of Class Counsel. *See Kullar, supra*, 168
20 Cal. App. 4th 116, 129 (2008) (“The court . . . should give considerable weight to the
21 competency and integrity of counsel . . . in assuring itself that a settlement agreement
22 represents an arm’s-length transaction entered without self-dealing or other potential
23 misconduct.”).

24 **B. Certification of the Settlement Class Is Appropriate.**

25 Plaintiffs requests the Court to certify the Class solely for settlement purposes
26 under Code Civ. P. § 382, which authorizes a class action where “[t]he question is one
27 of a common or general interest, of many persons, or when the Parties are numerous,
28 and it is impracticable to bring them all before the court.” To obtain certification, a

1 party must “establish the existence of both an ascertainable class and a well-defined
2 community of interest among the class members.” *Lockheed Martin Corp. v. Superior*
3 *Court*, 29 Cal. 4th 1096, 1103-1104 (2003). “The community of interest requirement
4 embodies three factors: (1) predominant common questions of law or fact; (2) class
5 representatives with claims or defenses typical of the class; and (3) class
6 representatives who can adequately represent the class.” *Richmond v. Dart Indus.,*
7 *Inc.*, 29 Cal. 3d 462, 470 (1981).

8 **1. The Proposed Class Is Ascertainable and Numerous.**

9 “No set number is required as a matter of law for the maintenance of a class
10 action” and classes of as few as 28 members have been certified. *Rose v. City of*
11 *Hayward*, 126 Cal. App. 3d 926, 934 (1981). In this matter, there are more than 800
12 Class Members; numerosity is therefore satisfied. (Agreement, ¶ 3.) “Class members
13 are ascertainable where they may be readily identified without unreasonable expense
14 or time by reference to official records.” *Aguiar v. Cintas Corp. No.2*, 144 Cal. App.
15 4th 121, 146 (2006). Here, Class Members are easily identifiable from Defendants’
16 employment records.

17 **2. The Community of Interest Requirements Are Met.**

18 **a. Common Questions Predominate.**

19 “The ultimate question the element of predominance presents is whether the
20 issues which may be jointly tried, when compared with those requiring separate
21 adjudication, are so numerous or substantial that the maintenance of a class action
22 would be advantageous to the judicial process and to the litigants.” *Brinker Rest.*
23 *Corp. v. Superior Court*, 53 Cal. 4th 1004, 1023 (2012). Here, Plaintiffs contend there
24 are at least two class-wide issues that predominate over any individual concerns. First
25 is the question of whether Defendant provided Plaintiffs and Class Members with
26 unlawful FCRA disclosures before obtaining their consumer reports. Second, is
27 whether Defendants violated the Labor Code in the manner alleged in the FAC.
28 Because Defendants are a joint enterprise that Plaintiffs contend followed the same

1 procedures with respect to all Class Members, Plaintiffs maintain that whether
2 Defendants' misconduct was unlawful can be determined on a class-wide basis.

3 **b. The Named Plaintiffs' Claims Are Typical.**

4 Typicality requires the named plaintiff's interests in the action be significantly
5 similar to those of other class members. *See Richmond, supra*, 29 Cal. 3d at 470. A
6 representative plaintiff's claims are typical if they (1) arise from the same event that
7 gives rise to the claims of other class members, and (2) are based on the same legal
8 theories. *Miller v. Woods*, 148 Cal. App. 4th 867, 872-73 (1983). When the same
9 underlying conduct affects the named plaintiffs and the putative class, the typicality
10 requirement is met irrespective of varying fact patterns that may underlie individual
11 claims. *Daniels v. Centennial Grp., Inc.*, 16 Cal. App. 4th 467, 473 (1993).

12 In this case, Named Plaintiffs have the same claims as Class Members:
13 violation of the FCRA's disclosure and authorization requirements based upon the
14 same allegedly non-compliant form and Labor Code violations. Claims of this sort are
15 routinely found to be typical. *See Richmond, supra*, 29 Cal. 3d at 470.

16 **c. The Class Is Adequately Represented by Plaintiffs and**
17 **Counsel.**

18 "Adequacy of representation depends on whether the Plaintiff's attorney is
19 qualified to conduct the proposed litigation and the Plaintiff's interests are not
20 antagonistic to the interests of the class." *McGhee v. Bank of Am.*, 60 Cal. App. 3d
21 445, 450 (1976). Plaintiffs have been actively engaged in litigation. Plaintiffs have
22 provided counsel with relevant documents, stayed abreast of developments and
23 settlement negotiations, and evaluated the Settlement Agreement. Plaintiffs put the
24 interests of the Class first in making decisions related to litigation and settlement.
25 Plaintiffs do not have any conflicts of interest with the putative class. Mr. Rutledge
26 and Mr. Pancer have extensive class action experience representing consumers and
27 employees in a myriad of cases, including FCRA and Labor Code cases. (Rutledge
28 Decl., ¶¶ 3-24; Pancer Decl., ¶¶ 1-13.)

d. **Class Action Is the Superior Vehicle for Adjudication.**

A class action is superior where individual claims are too small to warrant separate actions, and where duplicative or repetitious litigation is avoided through the use of the class device. *Aguilar v. Cintas Corp. No.2*, 144 Cal. App. 4th 121, 146 (2006). In a matter such as this, where the claims of all Class Members are identical and are based on the same common core of facts, but involve a modest amount of damages, it is clear that adjudicating this matter as a class action will achieve economies of time, effort, and expense, and promote uniformity of results.

VI. CONCLUSION.

For the foregoing reasons, Plaintiffs very respectfully requests that the Court: (1) preliminarily approve the proposed Settlement, (2) certify the Class for settlement purposes only, (3) appoint Plaintiff as Class Representative, (4) appoint Plaintiffs' counsel as Class Counsel, (5) direct notice to be distributed to the Class, and (6) schedule a final approval hearing.

Respectfully submitted,

Dated: August 28, 2023

Law Office of Thomas D.
Rutledge

By: Thomas D. Rutledge
/s/Thomas D. Rutledge, Esq.
Attorneys for Plaintiffs

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

I, THOMAS D. RUTLEDGE, the undersigned, am employed in the County of San Diego, State of California; I am over the age of 18 and not a party to the within action; my business address is 16956 Via de Santa Fe, Suite 1847, Rancho Santa Fe, California 92091-4606.

On August 28, 2023, I served the foregoing document(s) described as:

**PLAINTIFFS' MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF CLASS ACTION SETTLEMENT**

on the interested parties to this action by placing a copy thereof enclosed in a sealed envelope addressed as follows: **See Attached List.**

☒ **(BY MAIL)** I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. This correspondence was deposited with the United States Postal Service this same day in the ordinary course of business at our Firm's office address in San Diego, California. Service made pursuant to this paragraph, upon motion of a party served, shall be presumed invalid if the postal cancellation date of postage meter date on the envelope is more than one day after the date of deposit for mailing contained in this affidavit.

☒ **(BY E-MAIL via E-file)** I am readily familiar with the business practice for collection and processing of correspondence for emailing with the Court authorized third-party vendor. This correspondence was sent via email via this third-party vendor pursuant to the vendor's policies and practices.

☐ **(BY OVERNIGHT DELIVERY SERVICE)** I served the foregoing document by Federal Express, an express service carrier which provides overnight delivery, as follows. I placed true copies of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed to each interested party as set forth above, with fees for overnight delivery paid or provided for.

☐ **(BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to the offices of the above named addressee(s).

☐ **(BY FACSIMILE)** I caused such documents to be delivered via facsimile to the offices of the addressee(s) at the following facsimile number:

Executed August 28, 2023, at San Diego, California.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

THOMAS D. RUTLEDGE
/s/THOMAS D. RUTLEDGE

SERVICE LIST

Christopher Rowlett, Esquire
PEREZ, VAUGHN, & FEASBY, INC.
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Attorneys for Defendants