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October 10, 2022

Via Online Submission @ <https://dir.tfaforms.net/315>

Labor Workforce Development Agency, Department of Industrial Relations Attn: PAGA

Administrator

455 Golden Gate Avenue, 10th Floor

San Francisco, California 94102

Re: Notice of Pending Settlement Pursuant to Labor Code Section 2699(l)(2), LWDA Case No. LWDA-CM-825754-21

Employee: Jose A. Lainez

Employer: E. Turman and Company, Inc.

Dear Labor and Workforce Development Agency:

Moon & Yang, APC (sometimes "M&Y") represents Plaintiff Jose A. Lainez ("Plaintiff") in a class and representative action entitled *Lainez v. E. Turman and Company, Inc. dba Turman Commercial Painters*, which is now pending in the Alameda County Superior Court, Case No. RG21091805 (the "Action"). The Action involves Plaintiff's PAGA claims alleged in LWDA Case No. LWDA-CM-825754-21.

Now, in accordance with Labor Code Section 2699(l)(2), Plaintiff, as a deputized PAGA representative provides the LWDA notice of a pending settlement in the Action, which seeks the release of PAGA claims against Defendant E. Turman and Company, Inc. In light of this, Plaintiff has attached a copy of a July 8, 2022 Stipulation of Class and Representative Action Settlement, which has or will be filed in the Action.

A preliminary approval hearing regarding the settlement is set for 3:00 p.m., November 1, 2022, or as soon thereafter as the matter may be heard, in Department 23 of the Alameda Superior Court, located at 1225 Fallon Street, Oakland, California 94612.

Please do not hesitate to contact the undersigned with any inquiries.

MOON & YANG, APC



ROY K. SUH

Attorneys for Plaintiff JOSE A. LAINEZ

Attachment:

20220708 Settlement Agreement

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PAINTERS

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA – RENE C. DAVIDSON COURTHOUSE

JOSE A. LAINEZ, individually, and on behalf of
all others similarly situated,

Plaintiff,

v.

E. TURMAN AND COMPANY, INC., a
California corporation dba TURMAN
COMMERCIAL PAINTERS; and DOES 1
through 10, inclusive,

Defendants.

Case No. RG21091805
*Assigned for all purposes to the Honorable Brad
Seligman, Department 23*

**STIPULATION OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT**

PAGA Case No.	
LWDA-CM-825754-21:	March 12, 2021
Action Filed:	March 15, 2021
FAC Filed:	May 28, 2021
Trial Date:	None Set

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CLASS AND REPRESENTATIVE ACTION SETTLEMENT

I. INTRODUCTION AND MUTUAL INTENT TO SETTLE

1. Stipulating Parties and the Action. This Stipulation of Class and Representative Action Settlement (“Settlement” or “Settlement Agreement”) is made by and between Plaintiff Jose Lainez (“Plaintiff”) and Defendant E. Turman and Company, Inc. dba Turman Commercial Painters (“Defendant”) (jointly, the “Parties”) in *Lainez v. E. Turman and Company, Inc. dba Turman Commercial Painters*, Alameda County Superior Court, Case No. RG21091805 (the “Action”).

2. Stipulating Parties’ Joint Statement of Purpose and Intent to Settle. The Parties intend that this Settlement Agreement, subject to Court approval, shall fully, finally, forever resolve, discharge and settle this Action and have agreed to work diligently and cooperatively to present this Settlement Agreement to the Court so that it is finally approved and that the Action is finally adjudged.

II. DEFINITIONS

3. Action. “Action” means the putative class and representative action entitled *Lainez v. E. Turman and Company, Inc. dba Turman Commercial Painters*, Alameda County Superior Court, Case No. RG21091805, filed March 15, 2021.

4. Class. “Class” means all hourly non-exempt construction employees including, but not limited to, painters, laborers and drivers, currently and formerly employed by Defendant, in the State of California during the Class Period.

5. Class Counsel. “Class Counsel” means Moon & Yang, APC including Kane Moon and Roy K. Suh.

6. Class Counsel Cost Award. “Class Counsel Cost Award” means the amount not exceeding twenty thousand dollars and zero cents (\$20,000.00), payable from the Gross Settlement Amount and due to Class Counsel for reimbursement of Class Counsel’s reasonable litigation expenses incurred in litigating and resolving the Action; if the Court finally approves a lesser amount, then the difference shall remain part of the Net Settlement Amount.

7. Class Counsel Fee Award. “Class Counsel Fee Award” means the amount of no less than ninety-five thousand dollars and zero cents (\$95,000.00) or one-third (1/3) of the Gross Settlement Amount, whichever is greater, payable from the Gross Settlement Amount and due to Class Counsel as

1 reasonable attorneys' fees for litigating and resolving the Action; if the Court finally approves a lesser
2 amount, then the difference shall remain part of the Net Settlement Amount.

3 8. Class List. "Class List" means a Microsoft Excel (or similar electronically manipulatable)
4 spreadsheet containing the following information regarding each Class Member: (1) full name; (2) last
5 known address; (3) last known telephone number; (4) social security number or taxpayer identification
6 number; (5) start and end dates of employment as a non-exempt employee of Defendant in the State of
7 California; (6) total Workweeks worked during the Class Period; (7) total PAGA Pay Periods worked
8 during the PAGA Period; and (8) any other information the Settlement Administrator reasonably requires
9 to carry out its settlement administration duties.

10 9. Class Member. "Class Member" means a current or former hourly non-exempt
11 construction employees including, but not limited to, painters, laborers and drivers that Defendant
12 employed in the State of California at any time during the Class Period.

13 10. Class Notice. "Class Notice" means the Notice of Class and Representative Action
14 Settlement, substantially in the form attached as **Exhibit 1**, summarizing this Settlement Agreement
15 including its key terms, its binding nature, procedures for opting out of the Settlement and release of
16 Released Claims that do not arise under PAGA and the procedures for objecting to the Settlement.

17 11. Class Period. "Class Period" means the period commencing on March 16, 2017 and ending
18 on July 31, 2022.

19 12. Class Representative Service Award. "Class Representative Service Award" means the
20 amount not exceeding five thousand dollars and zero cents (\$5,000.00), payable from the Gross Settlement
21 Amount and due to Plaintiff, separate from any Individual Settlement Payment and Individual PAGA
22 Payment, for Plaintiff's efforts and risks in bringing and resolving the Action; if the Court finally approves
23 a lesser amount, then the difference shall remain part of the Net Settlement Amount.

24 13. Court. "Court" means the Superior Court of California for the County of Alameda County
25 and the judicial officer presiding over this Action.

26 14. Cy Pres Recipient. "Cy Pres Recipient" means the Justice Gap Fund, one of three
27 significant sources of funding for about 100 legal aid organizations across the state providing free civil
28 legal services to low-income Californians, whom the Parties have agreed to request the Court appoint as

the designated *cy pres* recipient of uncashed funds pursuant to this Settlement Agreement.

15. Defendant. “Defendant” means Defendant E. Turman and Company, Inc., a California Corporation, dba Turman Commercial Painters.

16. Defendant’s Counsel. “Defendant’s Counsel” means Simpson, Garrity, Innes & Jacuzzi, APC including Paul V. Simpson and Matthew A. Mallet.

17. Effective Date. “Effective Date” means the later of the following dates: (i) sixty-five (65) days after the Court enters Final Judgment and no appeal, writ or other challenge to the finality of the judgment has been filed; or (ii) five (5) days after the day when all appeals, writs or other challenges to the Final Judgment have been resolved in a manner that affirms the finality of the judgment and the time for the filing of any further appeals, writs or other challenges has lapsed.

18. Employer’s Share of Payroll Taxes. “Employer’s Share of Payroll Taxes” means the amount of Defendant’s employer payroll tax obligations on the wage portion of Individual Settlement Payments including withholdings and contributions for federal, state, local taxes and any similar tax or charge, payable from Defendant’s own accounts, separate from the Gross Settlement Amount and due to the applicable governing authorities.

19. Exhibits. “Exhibits” mean the two (2) exhibits attached to this Settlement Agreement including Exhibit 1 (draft Class Notice); and Exhibit 2 (draft Preliminary Approval Order).

20. Final Approval Hearing. “Final Approval Hearing” means the hearing the Court sets wherein Plaintiff shall move the Court to find that the Settlement is fair, reasonable and adequate and enter a Final Approval Order and Final Judgment.

21. Final Approval Order. “Final Approval Order” means the Court’s order, which shall, among other things, finally approve the fairness, reasonableness and adequacy of this Settlement Agreement.

22. Final Judgment. “Final Judgment” means the Court’s judgment, which shall, among other things, finally adjudge the Action as resolved pursuant to this Settlement Agreement and deeming it binding as provided herein.

23. Gross Settlement Amount. “Gross Settlement Amount” means the non-reversionary amount of no less than two hundred eighty-five thousand dollars and zero cents (\$285,000.00) that

Defendant shall pay as monetary consideration in exchange for releases of the Released Claims including released PAGA Claims and which amount shall be used to establish a common settlement fund for: (1) Individual Settlement Payments; (2) Settlement Administration Costs; (3) the PAGA Payment to the LWDA; (4) the PAGA Payment to PAGA Members; (5) the Class Representative Service Award; (6) the Class Counsel Fee Award; and (7) the Class Counsel Cost Award payable under this Settlement.

24. Gross Settlement Amount Escalator. “Gross Settlement Amount Escalator” means the conditional provision that provides that if the actual number of Workweeks worked by Class Members exceeds sixteen thousand and five hundred (16,500) Workweeks by ten percent (10%), then the Gross Settlement Amount shall increase proportionally by the percentage increase in excess of ten percent (10%), such that if the actual Workweeks worked by Class Members exceeds sixteen thousand and five hundred (16,500) Workweeks by eleven percent (11%), for instance, then the Gross Settlement Amount shall increase by one percent (1%).

25. Individual PAGA Payment. “Individual PAGA Payment” means a PAGA Member’s pro rata share of the PAGA Payment to PAGA Members that is payable to PAGA Members from the Gross Settlement Amount, which shall be determined by dividing the PAGA Payment to PAGA Members by the aggregate number of PAGA Pay Period credits assigned to all PAGA Members, resulting in a PAGA Pay Period Dollar Value and then by multiplying the PAGA Pay Period Dollar Value by the number of PAGA Pay Period credits assigned to each PAGA Member.

26. Individual Settlement Payment. “Individual Settlement Payment” means a Participating Class Member’s pro rata share of the Net Settlement Amount that is payable to Participating Class Members from the Gross Settlement Amount, which shall be determined by dividing the Net Settlement Amount by the aggregate number of Workweek credits assigned to all Participating Class Members, resulting in the Workweek Dollar Value and then by multiplying the Workweek Dollar Value by the number of Workweek credits assigned to each Participating Class Member.

27. LWDA. “LWDA” means the California Labor and Workforce Development Agency.

28. Net Settlement Amount. “Net Settlement Amount” means the aggregate amount payable to Participating Class Members, which shall be determined by subtracting the PAGA Payment, Settlement Administration Costs, Class Representative Service Award, Class Counsel Fee Award and Class Counsel

1 Cost Award from the Gross Settlement Amount.

2 29. Objection. “Objection” means a Participating Class Member’s timely and valid written
3 objection to the terms and conditions of this Settlement Agreement.

4 30. Opt-Out Request. “Opt-Out Request” means a Class Member’s timely and valid written
5 request to be excluded from the Settlement and release of Released Claims that do not arise under PAGA.

6 31. PAGA. “PAGA” means the California Labor Code Private Attorneys General Act of 2004.

7 32. PAGA Claims. “PAGA Claims” means all claims or causes of action under PAGA that
8 were or could have been premised on the claims, liabilities, demands, causes of action, rights, penalties,
9 legal theories of relief, or obligations of any nature under the California Private Attorneys General Act of
10 2004 (Cal. Labor Code §§ 2698 *et seq.*) alleged in Plaintiff’s March 12, 2021 PAGA notice to the LWDA
11 and Defendant in LWDA Case No. LWDA-CM-825754-21 and that were alleged or reasonably could
12 have been alleged based on the facts asserted in the operative complaint in the Action including, but not
13 limited to, for violations of the California Labor Code and California Industrial Welfare Commission
14 Wage Orders.

15 33. PAGA Members. “PAGA Members” means all hourly non-exempt construction employees
16 including, but not limited to, painters, laborers and drivers, currently and formerly employed by
17 Defendant, in the State of California during the PAGA Period.

18 34. PAGA Pay Period. “PAGA Pay Period” means any seven-day period starting from Monday
19 and ending on the following Sunday during which a PAGA Member worked at least one (1) day or is
20 otherwise identifiable as Defendant’s employee in the state of California in Defendant’s records during
21 the PAGA Period, which the Settlement Administrator preliminarily and finally assigns as credits to
22 individual PAGA Members when calculating Individual PAGA Payments.

23 35. PAGA Pay Period Dollar Value. “PAGA Pay Period Dollar Value” means the dollar value
24 for each PAGA Pay Period credit assigned to PAGA Members, which shall be determined by dividing the
25 PAGA Payment to PAGA Members by the aggregate number of all PAGA Pay Period credits assigned to
26 all PAGA Members.

27 36. PAGA Payment. “PAGA Payment” means the amount of ten thousand dollars and zero
28 cents (\$10,000.00), payable from the Gross Settlement Amount to resolve the PAGA Claims as alleged in

the Action. Subject to the approval of the Court, seventy-five percent (75%) of the PAGA Payment or seven thousand five hundred dollars and zero cents (\$7,500.00) shall be distributed to the LWDA, and twenty-five percent (25%) of the PAGA Payment or two thousand five hundred dollars and zero cents (\$2,500.00) shall be distributed to PAGA Members on a pro rata basis. In the event the LWDA or the Court rejects this allocation, the Parties will meet and confer with the Court and the LWDA to reach a penalty allocation acceptable to all Parties and the Court that does not materially alter the terms of the Settlement Agreement, nor require Defendant to pay more than the Gross Settlement Amount.

37. PAGA Payment to PAGA Members. “PAGA Payment to PAGA Members” means the amount of two thousand, five hundred dollars and zero cents (\$2,500.00), payable from the Gross Settlement Amount to PAGA Members as their aggregate twenty-five percent (25%) share of the PAGA Payment.

38. PAGA Payment to the LWDA. “PAGA Payment to the LWDA” means the amount of seven thousand, five hundred dollars and zero cents (\$7,500.00), payable from the Gross Settlement Amount and due to the LWDA as its seventy-five percent (75%) share of the PAGA Payment.

39. PAGA Period. “PAGA Period” means the period commencing on March 13, 2020 and ending on July 31, 2022.

40. PAGA Settlement. “PAGA Settlement” means the settlement and release of the PAGA Claims that arise under PAGA, which Plaintiff brought against Defendant, as a deputized PAGA representative of the State of California, which shall bind the State of California and which PAGA Members shall not be entitled to opt out of.

41. Participating Class Members. “Participating Class Members” means Plaintiff and all Class Members who do not submit a timely and valid Opt-Out Request.

42. Parties’ Counsel. “Parties’ Counsel” means the attorneys of record for Plaintiff and Defendant.

43. Plaintiff. “Plaintiff” means Plaintiff Jose Lainez.

44. Preliminary Approval Order. “Preliminary Approval Order” means the Court’s order, substantially in the form attached as **Exhibit 2**, which shall, among other things, preliminarily approve the fairness, reasonableness and adequacy of this Settlement Agreement.

45. Released Claims. “Released Claims” means all claims, rights, demands, liabilities and causes of action arising during the Class Period that were alleged or reasonably could have been alleged based on the facts asserted in the operative complaint in the Action, including the following claims or causes of action: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide required meal periods; (4) failure to provide required rest periods; (5) failure to indemnify employees for necessary expenditures incurred in discharge of duties; (6) failure to furnish accurate itemized wage statements; (7) failure to pay timely and all wages due to discharged and quitting employees; (8) unfair and unlawful business practices; and (9) civil penalties pursuant to PAGA and includes the release of PAGA Claims.

46. Released Parties. “Released Parties” means Defendant and all its present and former parent companies, subsidiaries, shareholders, owners, employees, officers, directors, agents, attorneys, insurers, successors and assigns, who could be held liable for any of the Released Claims.

47. Response Deadline. “Response Deadline” means the date sixty (60) calendar days after the postmarked date on Class Notices the Settlement Administrator initially mails to Class Members in bulk.

48. Settlement Administration Costs. “Settlement Administration Costs” means the amount not exceeding ten thousand dollars and zero cents (\$10,000.00), payable from the Gross Settlement Amount and due to the Settlement Administrator for the Settlement Administrator’s administration of the notice and distribution process pursuant to this Settlement Agreement and the Court’s orders; if the Court finally approves a lesser amount, then the difference shall remain a part of the Net Settlement Amount.

49. Settlement Administrator. “Settlement Administrator” means Simpluris, Inc., whom the Parties have agreed to request the Court appoint as the third-party settlement administrator to perform notice and settlement administration duties pursuant to this Settlement Agreement.

50. Workweek. “Workweek” means any calendar week commencing on Monday and ending on the following Sunday during which a Class Member worked at least one (1) day or is otherwise identifiable as Defendant’s employee in the state of California in Defendant’s records during the Class Period, which the Settlement Administrator preliminarily and finally assigns as credits to individual Participating Class Members when calculating Individual Settlement Payments.

51. Workweek/PAGA Pay Period Dispute. “Workweek/PAGA Pay Period Dispute” means a

1 Class Member's timely and valid written dispute about the number of Workweeks and/or PAGA Pay
2 Periods that the Settlement Administrator preliminarily credits to the affected Class Member.

3 52. Workweek Dollar Value. "Workweek Dollar Value" means the dollar value for each
4 Workweek credit assigned to Participating Class Members, which shall be determined by dividing the Net
5 Settlement Amount by the aggregate number of all Workweek credits assigned to all Participating Class
6 Members.

7 **III. RELEVANT PROCEDURAL HISTORY**

8 53. Plaintiff's PAGA Notice. On March 12, 2021, Plaintiff sent a PAGA notice to the LWDA
9 and Defendant, in LWDA Case No. LWDA-CM-825754-21, alleging Defendant violated various
10 provisions of the California Labor Code and other laws along with the facts and theories supporting the
11 alleged violations including those alleged in the operative complaint in the Action.

12 54. Plaintiff's Complaint. On March 15, 2021, Plaintiff filed a putative class action complaint
13 alleging Defendant's (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to
14 provide required meal periods; (4) failure to provide required rest periods; (5) failure to indemnify
15 employees for necessary expenditures incurred in discharge of duties; (6) failure to furnish accurate
16 itemized wage statements; (7) failure to pay timely and all wages due to discharged and quitting
17 employees; and (8) unfair and unlawful business practices.

18 55. Plaintiff's First Amended and Operative Complaint. On May 28, 2021, Plaintiff filed a
19 First Amended Complaint, the operative complaint in this Action, which added a ninth cause of action,
20 resulting in the operative complaint alleging Defendant's (1) failure to pay minimum wages; (2) failure to
21 pay overtime wages; (3) failure to provide required meal periods; (4) failure to provide required rest
22 periods; (5) failure to indemnify employees for necessary expenditures incurred in discharge of duties; (6)
23 failure to furnish accurate itemized wage statements; (7) failure to pay timely and all wages due to
24 discharged and quitting employees; (8) unfair and unlawful business practices; and (9) conduct giving rise
25 to PAGA civil penalties.

26 56. Plaintiff's Discovery and Investigation. Prior to the filing of this Action, Plaintiff and
27 Plaintiff's counsel, engaged in substantial investigation about the Defendant's business practices in
28 California. After the Action was filed and prior to mediation, the Parties engaged in extensive informal

exchange of information. Plaintiff obtained documents, data and information from Defendant and other resources including, but not limited to, a sampling of Class Member time and pay records consisting of a large volume of data and consisting of hundreds of thousands of data points.

57. Mediation and Agreement to Settle the Action. On May 10, 2022, the Parties participated in a private mediation session with an experienced wage and hour class action mediator, Tripper Ortman, Esq., which led to the Parties' May 20, 2022 agreement about the material terms of a class and representative settlement, which formed the basis of this Settlement Agreement.

IV. RECITALS AND REPRESENTATIONS

58. This Settlement is Fair, Adequate and Reasonable. The Parties represent this Settlement Agreement is a fair, adequate and reasonable settlement of the Action and that the Parties have arrived at this Settlement Agreement after extensive arms-length negotiations while accounting for materially relevant factors, present and potential. The Parties further agree that the consideration described herein constitutes adequate consideration for the Settlement and releases described herein.

a. Numerosity of Potential Class Members. For purposes of settlement only, the Parties agree that because the potential Class is so numerous, it is impossible or impractical to have each Class Member execute this Settlement Agreement.

b. Notice and Opportunity to Respond Comporting with Due Process. For purposes of settlement only, the Parties agree that because of the numerosity of the potential Class, the notice and response procedure outlined in this Settlement Agreement provides the best and most practical notice to Class Members and fully complies with due process.

c. Benefits of Settlement to Plaintiff and Class Members. Plaintiff recognizes continued litigation in the Action through trial, appeals and final judgment would be time consuming, uncertain, risky and expensive. Plaintiff recognizes these uncertainties and risks include Plaintiff's ability obtain class certification of claims, as well as to meet the burdens of proof necessary to establish liability, damages, penalties and other relief sought for the causes of action asserted in the Action, generally and in response to Defendant's defenses thereto. Plaintiff also recognizes Defendant's agreement to enter into a settlement may result in substantial benefits for Class Members because it is a good faith compromise of highly disputed claims. Accordingly, Plaintiff, under Class Counsel's guidance, has determined the

1 Settlement is fair, adequate and reasonable and that it is in the best interests of the Class.

2 d. Defendant's Reasons for Settlement. Defendant recognizes continued defensive
3 litigation in the Action would be protracted and expensive for it. Defendant recognizes it would continue
4 to expend substantial time and expense to prove the merits of its defenses. While Defendant is confident
5 that it has done no wrong, continued litigation in the Action through trial, appeals and final judgment
6 would be time consuming, uncertain, risky and expensive. Defendant continues to assert Plaintiff's
7 allegations have no merit and do not give rise to Defendant's liability for damages, restitution, penalties,
8 or other payments and that this Settlement is a compromise of disputed claims. Defendant has agreed to
9 settle in the manner and upon the terms set forth in this Settlement Agreement to put the claims alleged in
10 the Action to rest.

11 e. No Admissions by Defendant or Plaintiff. Defendant denies all claims alleged in
12 the Action and denies all wrongdoing. Defendant contends it has complied with all applicable state, federal
13 and local laws and reserves its right to assert all available defenses to Plaintiff's claims in the Action.
14 Nothing contained in this Settlement Agreement, nor any documents referred to herein and no action that
15 the Parties have undertaken to effectuate this Settlement Agreement should be construed or used as an
16 admission by or against any of the Parties as to suitability of class or representative adjudication or about
17 the merits of the claims asserted in the Action. The Parties maintain that neither this Settlement
18 Agreement, nor any of its terms and conditions, nor any of the negotiations connected with it, is a
19 concession, admission, or inference regarding wrongdoing or that class certification is proper under the
20 standard applied to contested certification motions.

21 f. Certification for Settlement Purposes Only. The Parties agree to the certification of
22 the proposed class for settlement purposes only.

23 g. No Conflicts of Interest with Relevant Third-Parties. The Parties represent they do
24 not have any financial interest in the Settlement Administrator, the *Cy Pres* Recipient or otherwise have a
25 relationship with the Settlement Administrator, the *Cy Pres* Recipient or any third party that could create
26 an appearance of a conflict of interest.

27 59. No Tax Advice & Circular 230 Disclaimer. The Parties represent that no provision of this
28 Settlement Agreement or other communications or disclosures is, or was intended, to constitute tax advice

within the meaning of United States Treasury Department Circular 230 (31 C.F.R., Subtitle A, Part 10, as amended). The Parties further represent they: (i) shall be solely responsible for reporting and paying any applicable federal, state and/or local income tax, employment tax or any other withholding on all taxable income or other benefit they individually receive as consideration exchanged pursuant to this Settlement Agreement; (ii) have relied exclusively upon their own, independent legal and tax advisors for tax advice in connection with this Settlement Agreement; and (iii) in keeping with their individual rights to due process, shall not be entitled to rely upon any communication or disclosure by Plaintiff, Defendant or Parties' Counsel to avoid the payment of any assessment, penalty, tax, attorneys' fees, or other amounts based on the taxability of any consideration provided or exchanged pursuant to this Settlement Agreement.

**V. SETTLEMENT CONSIDERATION AND RELEASED CLAIMS ON AND AFTER
EFFECTIVE DATE**

60. No Release of Claims Against any Other Defendant. Because Defendant E. Turman and Company, Inc., a California Corporation, dba Turman Commercial Painters is the only individual defined as a "Defendant" for the purposes of this Settlement Agreement, there shall be no release of any claims of any nature against any other person pursuant to this Settlement Agreement unless such person qualifies as one of the Released Parties and the claim qualifies as a Released Claim.

61. Non-Reversionary Nature of Settlement Agreement. No portion of the Gross Settlement Amount shall revert to Defendant.

62. No Claim-Submission Process. There shall be no claim or claim form submission process or requirement and, as such, Class Members shall not receive, nor shall they be required to submit, a claim form to be entitled to an Individual Settlement Payment and/or Individual PAGA Payment.

63. Releases of Claims Against Released Parties. In exchange for Defendant's performance of its obligations during Settlement Administration, culminating in Defendant remitting the entire Gross Settlement Amount to the Settlement Administrator, the Released Claims shall be released as follows.

a. Participating Class Members' Release of Released Claims. After Defendant remits the Gross Settlement Amount in full to the Settlement Administrator, Plaintiff and all other Participating Class Members shall be deemed to have settled and released all Released Claims against the Released Parties that do not arise under PAGA.

b. California's Release of PAGA Claims. After Defendant remits the Gross Settlement Amount in full to the Settlement Administrator, the State of California, by and through Plaintiff, its deputized PAGA representative, shall be deemed to have settled and released all PAGA Claims against the Released Parties.

**VI. SETTLEMENT ADMINISTRATOR AND GENERAL SETTLEMENT
ADMINISTRATION DUTIES**

64. Appointment of Settlement Administrator. The Parties have agreed to request that the Court appoint Simpluris, Inc. as the third-party settlement administrator to perform settlement administration duties pursuant to this Settlement Agreement. The Parties and Parties' Counsel represent they have no financial interest in, or relationship with, the Settlement Administrator that could create an appearance of a conflict of interest.

65. Settlement Administrator's Duties During Settlement Administration. The Settlement Administrator shall perform the express and implied settlement administration tasks in this Settlement Agreement including: (i) printing and mailing Class Notices; (ii) collecting, validating and attempting to resolve Workweek/PAGA Pay Period Disputes; (iii) collecting and validating Opt-Out Requests and Objections; (iv) establishing a qualified settlement fund; (v) preparing and mailing tax forms to Class Members and others; (vi) computing and distributing all payments made under the Settlement; (vii) calculating and remitting all employee payroll and other tax obligations to the appropriate government agencies; and (viii) transferring uncashed Individual Settlement Payments and Individual PAGA Payments to the *Cy Pres* Recipient.

a. Settlement Administrator's Secure Recordkeeping and File Maintenance. The Settlement Administrator shall secure and protect Class Member information from unauthorized access to, use, deletion and modification including all information in the Class List. The Settlement Administrator shall also exercise its best judgment and discretion to limit the disclosure of Class Member information to only those persons who need it to implement the terms and conditions of this Settlement Agreement and shall maintain all records related to the settlement administration tasks it performs for at least four (4) years after settlement administration has been completed.

b. Records of Communication with Class Members and Class List Maintenance. The

Settlement Administrator shall create and maintain records of all communications with Class Members or other persons affected by this Settlement Agreement including by maintaining documents it sends to and receives from Class Members and the Settlement Administrator's own notes describing oral or written communications with all Class Members. The Settlement Administrator shall also promptly and continuously update the Class List with all material notes and information to ensure it possesses the most accurate information about Class Members throughout settlement administration.

c. Communications with Class Members in English and Spanish. If a Class Member indicates Spanish is their language of choice, then the Settlement Administrator shall undertake reasonable efforts to communicate in Spanish with Class Members.

VII. CONTENTS OF CLASS NOTICE

66. Class Notice Generally. The Parties have agreed to request that the Court approve a class notice, substantially in the form attached as Exhibit 1, which shall provide, among other things: (1) a brief explanation of the case, including the basic contentions or denials of the Parties; (2) a statement that the Court will exclude a member from the Class if the Class Member so requests by the Response Deadline; (3) a procedure for the Class Member to follow in requesting exclusion from the Class; (4) a statement that a judgment, whether favorable or not, will bind all Class Members who do not request exclusion; and (5) a statement that any Class Member who does not request exclusion may, if the Class Member so desires, enter an appearance through counsel.

a. Notice and Binding Nature of Settlement Agreement. The Class Notice shall indicate the potentially binding nature of this Settlement Agreement on all Class Members.

b. Settlement Administration Disputes Prior to the Final Approval Hearing Subject to Court Review. The Class Notice shall indicate the Settlement Administrator, who the Court has appointed as a third-party to execute settlement administration duties, shall attempt to resolve all disputes including all Workweek/PAGA Pay Period Disputes, Opt-Out Request disputes and Objection disputes, prior to the Final Approval Hearing and that the Settlement Administrator's determinations or decisions regarding the timeliness and validity of any dispute regarding this Settlement Agreement, shall be subject to Court review.

c. Individualized Class Notices and Response Deadline. The Settlement

1 Administrator shall print Class Notices addressed to Class Members whose names appear on the Class
2 List along with information specifically applicable to Class Members including the number of Workweek
3 credits and PAGA Pay Period credits the Settlement Administrator intends on assigning Class Members
4 and shall expressly identify the Response Deadline, by providing a date certain, which shall occur sixty
5 (60) days after the Settlement Administrator's initial bulk mailing of Class Notices.

6 67. Gross Settlement Amount. The Class Notice shall indicate that the non-reversionary Gross
7 Settlement Amount shall be no less than two hundred eighty-five thousand dollars and zero cents
8 (\$285,000.00), which Defendant shall pay as monetary consideration for the release of Released Claims
9 and which amount shall be used to establish a common settlement fund comprising: (1) Individual
10 Settlement Payments; (2) Settlement Administration Costs; (3) the PAGA Payment to the LWDA; (4) the
11 PAGA Payment to PAGA Members; (5) the Class Representative Service Award; (6) the Class Counsel
12 Fee Award; and (7) the Class Counsel Cost Award payable under this Settlement.

13 a. Aggregate Workweek and Pay Period Estimate. The Class Notice shall provide the
14 aggregate number of Workweeks worked by Class Members and the aggregate number of PAGA Pay
15 Periods worked by PAGA Members according to Defendant's records.

16 b. Gross Settlement Amount Escalator Clause. The Class Notice shall indicate that if
17 the actual number of Workweeks worked by Class Members exceeds sixteen thousand and five hundred
18 (16,500) Workweeks by ten percent (10%), then the Gross Settlement Amount shall increase
19 proportionally by the percentage increase in excess of ten percent (10%), such that if the actual
20 Workweeks worked by Class Members exceeds sixteen thousand and five hundred (16,500) Workweeks
21 by eleven percent (11%), for instance, then the Gross Settlement Amount shall increase by one percent
22 (1%).

23 68. Net Settlement Amount. The Class Notice shall indicate that the Net Settlement Amount,
24 which, subject to a final accounting, is estimated to be no less than one hundred forty-five thousand dollars
25 and zero cents (\$145,000.00), shall be the aggregate amount payable to Participating Class Members,
26 which shall be determined by subtracting the PAGA Payment, Settlement Administration Costs, Class
27 Representative Service Award, Class Counsel Fee Award and the Class Counsel Cost Award from the
28 Gross Settlement Amount. The Parties intend that the Net Settlement Amount shall be sufficient to release

all valid Released Claims of Participating Class Members. Accordingly, if for any reason the total value of payments to Participating Class Members exceeds this amount, then payments will be adjusted on a pro-rata basis so that the total payout to all Participating Class Members does not exceed the Net Settlement Amount.

a. Settlement Administration Costs. The Class Notice shall indicate that an amount not exceeding ten thousand dollars and zero cents (\$10,000.00), which Defendant has agreed not to oppose, shall be payable from the Gross Settlement Amount and due to the Settlement Administrator for the Settlement Administrator's administration of the notice and distribution process pursuant to this Settlement Agreement and that if the Court finally approves a lesser amount, then the difference shall remain a part of the Net Settlement Amount.

b. Class Representative Service Award. The Class Notice shall indicate that an amount not exceeding five thousand dollars and zero cents (\$5,000.00), payable from the Gross Settlement Amount and due to Plaintiff, which Defendant has agreed not to oppose, shall be payable from the Gross Settlement Amount and due to Plaintiff, separate from any Individual Settlement Payment and Individual PAGA Payment, for Plaintiff's efforts and risks in bringing and resolving the Action and that if the Court finally approves a lesser amount, then the difference shall remain part of the Net Settlement Amount.

c. Class Counsel Fee Award. The Class Notice shall indicate that an amount of no less than ninety-five thousand dollars and zero cents (\$95,000.00) or one-third (1/3) of the Gross Settlement Amount, whichever is greater, which Defendant has agreed not to oppose, shall be payable from the Gross Settlement Amount and due to Class Counsel as reasonable attorneys' fees for litigating and resolving the Action and that if the Court finally approves a lesser amount, then the difference shall remain part of the Net Settlement Amount.

d. Class Counsel Cost Award. The Class Notice shall indicate that an amount not exceeding twenty thousand dollars and zero cents (\$20,000.00), which Defendant has agreed not to oppose, shall be payable from the Gross Settlement Amount and due to Class Counsel for reimbursement of Class Counsel's reasonable litigation expenses incurred in litigating and resolving the Action and that if the Court finally approves a lesser amount, then the difference shall remain part of the Net Settlement Amount.

e. PAGA Payment to the LWDA. The Class Notice shall indicate that seven thousand, five hundred dollars and zero cents (\$7,500.00), which Defendant has agreed not to oppose, shall be payable from the Gross Settlement Amount and due to the LWDA as its seventy-five percent (75%) share of the PAGA Payment.

69. Individual PAGA Payments Reported on IRS Form 1099-MISC. The Class Notice shall indicate that two thousand five hundred dollars and zero cents (\$2,500.00) shall be payable from the Gross Settlement Amount to PAGA Members as their aggregate twenty-five percent (25%) share of the PAGA Payment, which the Settlement Administrator shall report as non-wage income on IRS Form 1099-MISC.

a. Individual PAGA Payment Calculations Based on PAGA Pay Period Credits. The Class Notice shall indicate that Individual PAGA Payments due to PAGA Members shall be based on their respective pro rata shares of the PAGA Payment to PAGA Members, which shall be determined by the following three-step process: (i) the Settlement Administrator shall credit each PAGA Member with PAGA Pay Period credits based on the data in the Class List, which shall be presumed accurate, subject to the Workweek/PAGA Pay Period Dispute process; (ii) the Settlement Administrator shall determine the PAGA Pay Period Dollar Value by dividing the PAGA Payment to PAGA Members by the number of PAGA Pay Periods credited to all PAGA Members; and (iii) the Settlement Administrator shall determine the Individual PAGA Payment due to each PAGA Member by multiplying the number of PAGA Pay Periods credited to each PAGA Member by the PAGA Pay Period Dollar Value.

b. Individualized PAGA Payment Amount Estimates. The Class Notice shall indicate the estimated Individual PAGA Payment due to each PAGA Member based on the PAGA Pay Period credits that the Settlement Administrator intends on assigning to each PAGA Member, subject to the Workweek/PAGA Pay Period Dispute process.

70. Individual Settlement Payments Reported on IRS Form W-2 (20%) and IRS Form 1099-MISC (80%). The Class Notice shall indicate that Net Settlement Amount, which, subject to a final accounting, is estimated to be no less than one hundred forty-five thousand dollars and zero cents (\$145,000.00), shall be the aggregate amount payable to Participating Class Members, which the Settlement Administrator shall report as twenty percent (20%) wages, subject to reduction for applicable employee payroll taxes and customary withholdings, on IRS Form W-2s and eighty percent (80%) as non-

wage income on IRS Form 1099-MISC.

a. Individual Settlement Payments Based on Workweek Credits. The Class Notice shall indicate that Individual Settlement Payments due to Participating Class Members shall be based on their respective pro rata shares of the Net Settlement Amount, which shall be determined by the following three-step process: (i) the Settlement Administrator shall credit each Participating Class Member with Workweek credits based on the data in the Class List, which shall be presumed accurate, subject to the Workweek/PAGA Pay Period Dispute process; (ii) the Settlement Administrator shall determine the Workweek Dollar Value by dividing the Net Settlement Amount by the number of Workweeks credited to all Participating Class Members; and (iii) the Settlement Administrator shall determine the Individual Settlement Payment due to each Participating Class Member by multiplying the number of Workweeks credited to each Participating Class Member by the Workweek Dollar Value.

b. Individualized Settlement Payment Amount Estimates. The Class Notice shall indicate the estimated Individual Settlement Payment due to each Class Member based on the Workweek credits that the Settlement Administrator intends on assigning to each Class Member, subject to the Workweek/PAGA Pay Period Dispute process.

71. Individual Settlement Payment and Individual PAGA Payment Checks Void After 180 Days. The Class Notice shall indicate that all Individual Settlement Payment and Individual PAGA Payment checks shall be valid for one hundred eighty (180) days after the Settlement Administrator's initial bulk mailing and that if any Individual Settlement Payment or Individual PAGA Payment check has not been cashed or deposited by that time, then they shall become void.

a. Void Individual Settlement Payment and Individual PAGA Payment Checks Still Binding. The Class Notice shall indicate that if any Participating Class Members or PAGA Members do not cash, deposit or receive Individual Settlement Payment or Individual PAGA Payment checks after the Settlement Administrator's initial bulk mailing and before the date they become void, then all affected Participating Class Members and PAGA Members shall, nevertheless, remain bound to the Settlement to the fullest extent under the law.

b. Transfer of Void Individual Settlement Payment and Individual PAGA Payment Amounts to the Cy Pres Recipient. The Class Notice shall indicate that the Settlement Administrator shall,

1 after the date that Individual Settlement Payment and Individual PAGA Payment checks become void,
2 transfer all amounts associated with the voided checks via secure wire transfer to the Justice Gap Fund,
3 one of three significant sources of funding for about 100 legal aid organizations across the state providing
4 free civil legal services to low-income Californians and with whom the Parties and Parties' Counsel have
5 no connection or affiliation that could create an appearance of a conflict of interest.

6 72. No Tax Advice in Class Notice. The Class Notice shall indicate that the Parties make no
7 representations concerning the taxability, tax treatment, or legal effect of any tax laws on any
8 consideration provided or exchanged pursuant to the Settlement Agreement including any Individual
9 Settlement Payments or any Individual PAGA Payments and that Class Members should consult their own
10 tax advisors concerning the tax consequences of any payment under the Settlement Agreement.

11 73. Workweek/PAGA Pay Period Disputes. The Class Notice shall indicate that if a Class
12 Member wishes to dispute the number of Workweeks or PAGA Pay Periods credited to the affected Class
13 Member in the Class Notice, then the affected Class Member must submit a timely and valid written
14 Workweek/PAGA Pay Period Dispute to the Settlement Administrator by United States Mail, facsimile
15 and/or in other written form by no later than the Response Deadline.

16 a. Timeliness of Workweek/PAGA Pay Period Disputes. The Class Notice shall
17 indicate that the Settlement Administrator shall determine whether a Workweek/PAGA Pay Period
18 Dispute is timely based on the postmarked date on the mailing envelope, or by other indicia of timeliness.

19 b. Validity of Workweek/PAGA Pay Period Disputes. The Class Notice shall indicate
20 that the Settlement Administrator shall determine whether a Workweek/PAGA Pay Period Dispute is valid
21 based on whether it is in writing and includes the following five (5) enumerated items: (1) the Class
22 Member's full name; (2) the Class Member's approximate dates of employment; (3) the Class Member's
23 current contact information (e.g., a current mailing address and telephone number); (4) a statement
24 indicating the number of Workweeks and/or PAGA Pay Periods that the affected Class Member contends
25 should be credited along with documentary evidence to support the affected Class Member's contentions,
26 if any; and (5) the Class Member or Class Member's legal representative's signature.

27 c. Untimely or Invalid Workweek/PAGA Pay Period Disputes. The Class Notice shall
28 indicate that if a Workweek/PAGA Pay Period Dispute is not submitted in a timely and valid manner, then

1 it may result in an affected Class Member being credited with fewer Workweeks or PAGA Pay Periods
2 than the affected Class Member may be entitled to.

3 74. Opt-Out Requests. The Class Notice shall indicate that if a Class Member wishes to be
4 excluded from the Settlement and release of Released Claims (that do not arise under PAGA), then the
5 affected Class Member must submit a timely and valid written Opt-Out Request to the Settlement
6 Administrator by United States Mail, facsimile and/or in other written form by no later than the Response
7 Deadline. The Class Notice shall also indicate that if a Class Member submits a timely and valid Opt-Out
8 Request, then the Class Member shall not be entitled to any benefits under the Settlement, other than an
9 entitlement to an Individual PAGA Payment (if the Class Member qualifies as a PAGA Member) and the
10 Class Member shall have no right to object to the Settlement Agreement or appeal the Final Judgment.

11 a. Timeliness of Opt-Out Requests. The Class Notice shall indicate that the Settlement
12 Administrator shall determine whether an Opt-Out Request is timely based on the postmarked date on the
13 mailing envelope, or by other indicia of timeliness.

14 b. Validity of Opt-Out Requests. The Class Notice shall indicate that the Settlement
15 Administrator shall determine whether an Opt-Out Request is valid based on whether it is in writing and
16 includes the following five (5) enumerated items: (1) the Class Member's full name; (2) the Class
17 Member's approximate dates of employment; (3) the Class Member's contact information (e.g., current
18 mailing address and telephone number); (4) the Class Member's statement in no exact words but,
19 nevertheless, substantially in a form and substance indicating a desire to be excluded from the Settlement
20 Agreement (e.g., "I wish to be excluded from the settlement."; "I opt out from the settlement."; or "I do
21 not want to be part of the settlement."); and (5) the Class Member or Class Member's legal representative's
22 signature.

23 c. Untimely or Invalid Opt-Out Requests. The Class Notice shall indicate that if an
24 Opt-Out Request is not submitted in a timely and valid manner, then it may result in an affected Class
25 Member being deemed a Participating Class Member who is bound by the Settlement and release of
26 Released Claims.

27 75. Objections. The Class Notice shall indicate that if a Class Member wishes to object to the
28 Settlement Agreement, then the Class Member must submit a timely and valid written Objection to the

1 Settlement Administrator by United States Mail, facsimile and/or in other written form by no later than
2 the Response Deadline and that any Class Member may hire an attorney at his or her own expense as a
3 representative, who may assist the Class Member in submitting or raising an objection. The Class Notice
4 shall also indicate that if a Class Member submits a timely and valid Objection, then the Class Member
5 may still be bound by the terms of the Settlement, the release of Released Claims and the Final Judgment
6 as a Participating Class Member.

7 a. Timeliness of Objections. The Class Notice shall indicate that the Settlement
8 Administrator shall determine whether an Objection is timely based on the postmarked date on the mailing
9 envelope, or by other indicia of timeliness.

10 b. Validity of Objections. The Class Notice shall indicate that the Settlement
11 Administrator shall determine whether an Objection is valid based on whether it is in writing and includes
12 the following five (5) enumerated items: (1) the Class Member's full name; (2) the Class Member's
13 approximate dates of employment; (3) the Class Member's current contact information (e.g., a current
14 mailing address and telephone number); (4) the Class Member's statement indicating the grounds for the
15 objection; and (5) the Class Member or Class Member's legal representative's signature.

16 c. Untimely or Invalid Objections. The Class Notice shall indicate that if an Objection
17 is not submitted in a timely and valid manner, then it may result in an affected Class Member's objection
18 not being considered by the Court and that the affected Class Member may be deemed to have waived any
19 right to object to the Settlement and prohibited from raising an objection to the Settlement at any hearing.

20 **VIII. PRELIMINARY APPROVAL AND CLASS NOTICE ADMINISTRATION AFTER**
21 **PRELIMINARY APPROVAL ORDER**

22 76. Motion for Preliminary Approval of Settlement. No later than sixteen (16) court days
23 before the Preliminary Approval Hearing, Plaintiff shall file a motion for preliminary approval, seeking,
24 among other things, entry of a Preliminary Approval Order, substantially in the form attached as Exhibit
25 2, conditionally certifying the Class for settlement purposes only, appointing Plaintiff as a representative
26 of the Class, appointing Class Counsel as counsel for the Class, appointing the Settlement Administrator,
27 setting a Final Approval Hearing date and ordering the Settlement Administrator to mail the Class Notice
28 to Class Members.

1 a. Defendant's Provision of Updated Number of Class Members, Workweeks, PAGA
2 Members and PAGA Pay Periods. No later than seven (7) days before Plaintiff's motion for preliminary
3 approval hearing date, Defendant shall provide Class Counsel the updated number of Class Members,
4 Workweeks worked by Class Members, PAGA Members and PAGA Pay Periods worked by PAGA
5 Members that will be subject to this Settlement Agreement.

6 b. Defendant's Provision of the Class List to the Settlement Administrator. No later
7 than seven (7) days after the Court's entry of a Preliminary Approval Order, Defendant shall provide the
8 Settlement Administrator with the Class List.

9 77. Mailing of Class Notice by Bulk First Class U.S. Mail. No later than fourteen (14) days
10 after receiving the Class List, the Settlement Administrator shall mail copies of the Class Notice in English
11 and Spanish to all Class Members via bulk First Class United States Mail, forwarding service requested.

12 a. Verification of Class Member Current Addresses and Presumption of Accuracy.
13 Prior to mailing Class Notices to Class Members, the Settlement Administrator shall search the National
14 Change of Address Database maintained by the United States Postal Service and perform skip tracing or
15 other verification procedures to verify Class Members' current addresses. The addresses the Settlement
16 Administrator determines as Class Members' current mailing addresses shall be presumed accurate.

17 b. IRS Form W-9 and Additional Withholdings for Unverified Social Security or
18 Taxpayer Identification Numbers. Prior to mailing Class Notices to Class Members, the Settlement
19 Administrator shall use verification procedures to verify Class Member social security numbers and/or
20 taxpayer identification numbers and shall update the Class List accordingly. If the Settlement
21 Administrator is unable to verify a Class Member's social security number and/or taxpayer identification
22 number prior to its initial bulking mailing of Class Notices, then the Settlement Administrator shall enclose
23 an IRS Form W-9 along with each affected Class Member's Class Notice and a writing informing the
24 affected Class Member that the Settlement Administrator was unable to verify the affected Class
25 Member's social security number and/or taxpayer identification number and that the affected Class
26 Member must submit a completed and executed IRS Form W-9 to the Settlement Administrator on or
27 before the Response Deadline to avoid additional withholdings and potential delays in distribution of any
28 payments the affected Class Member may be entitled to under the Settlement.

1 c. Re-Mailing of Undelivered Class Notices. No later than three (3) business days
2 after receiving a Class Notice returned as undelivered up to ten (10) days after the Response Deadline,
3 Settlement Administrator shall attempt to determine another mailing address for the affected Class
4 Member by use of skip tracing or other verification or search procedures using the name, address,
5 telephone number, social security number and/or taxpayer identification number of the affected Class
6 Member. If the Settlement Administrator identifies another mailing address for the affected Class
7 Member, then it shall re-mail the Class Notice to the affected Class Member on the same day. If the
8 Settlement Administrator does not identify another mailing address for the affected Class Member, then
9 the Settlement Administrator shall be deemed to have satisfied its obligations to attempt to re-mail the
10 undelivered Class Notice to that affected Class Member. The Settlement Administrator shall maintain
11 records of the dates it receives undelivered Class Notices and re-mails Class Notices.

12 78. Settlement Administrator's Weekly Reports Regarding Class Notice Mailings,
13 Workweek/PAGA Pay Period Disputes, Opt-Out Requests and Objections. After its initial bulk mailing
14 of Class Notices, the Settlement Administrator shall provide the Parties a weekly report, which shall
15 include information about the number of Class Notices mailed, Class Notices returned as undelivered,
16 Class Notices re-mailed, Workweek/PAGA Pay Period Disputes received, Opt-Out Requests received and
17 Objections received. The Settlement Administrator shall and continuously provide the Parties such weekly
18 reports until at least ten (10) days after the Response Deadline.

19 79. Determination of Timeliness and Validity of Workweek/PAGA Pay Period Disputes.
20 Subject to Parties' Counsel and Court review, the Settlement Administrator shall determine whether the
21 submission of a Workweek/PAGA Pay Period Dispute is timely and valid.

22 a. Workweek/PAGA Pay Period Dispute Timeliness. The Settlement Administrator
23 shall determine whether a Workweek/PAGA Pay Period Dispute is timely based on the postmarked date
24 on the mailing envelope, or by other indicia of timeliness. If the postmarked date or other indicia shows
25 the dispute was submitted after the Response Deadline, then the Settlement Administrator shall conclude
26 that the submission was untimely, which may render the submission null, void and ineffective.

27 b. Workweek/PAGA Pay Period Dispute Validity. The Settlement Administrator shall
28 determine whether a Workweek/PAGA Pay Period Dispute is valid based on whether it is in writing and

1 includes the five (5) enumerated items required for validity. If the dispute is submitted orally or a written
2 submission is ambiguous or lacks any of the five (5) enumerated items required for validity, then the
3 Settlement Administrator shall conclude that the submission is invalid, which may render the submission
4 null, void and ineffective.

5 c. Workweek/PAGA Pay Period Dispute Cure Notices and Notice to the Court. No
6 later than three (3) business days after the Settlement Administrator concludes that a Workweek/PAGA
7 Pay Period Dispute is untimely or invalid prior to the Final Approval Hearing, the Settlement
8 Administrator shall attempt to communicate with the affected Class Member to request that the affected
9 Class Member cure any deficiencies in writing. Regardless of the timeliness or validity of any
10 Workweek/PAGA Pay Period Dispute, the Parties shall ensure that all Workweek/PAGA Pay Period
11 Disputes or any other written statements arguably constituting a timely and valid Workweek/PAGA Pay
12 Period Dispute are brought to the Court's attention in advance of the Final Approval Hearing.

13 80. Workweek/PAGA Pay Period Dispute Notice, Investigation and Resolution. If the
14 Settlement Administrator receives a Workweek/PAGA Pay Period Dispute prior to the Final Approval
15 Hearing, then the Settlement Administrator shall promptly investigate and attempt to resolve the dispute.

16 a. Workweek/PAGA Pay Period Dispute Notice to the Parties. No later than three (3)
17 business days after receiving a Workweek/PAGA Pay Period Dispute, and unless the Settlement
18 Administrator has good cause to limit the disclosure of an affected Class Member's personal information
19 considering factors including the affected Class Member's stated or unstated privacy interests, the
20 Settlement Administrator shall notify the Parties of its receipt of the Workweek/PAGA Pay Period Dispute
21 via electronic mail or facsimile, which shall include the identity and contact information of the affected
22 Class Member and any evidence submitted by the affected Class Member.

23 b. The Parties' Submission and Evaluation of Further of Evidence. No later than seven
24 (7) days after receiving the Settlement Administrator's notice of a Workweek/PAGA Pay Period Dispute
25 Defendant shall provide the Settlement Administrator with all relevant information it possesses about the
26 affected Class Member's contentions. Given Class Counsel's fiduciary duties owed to Class Members,
27 Class Counsel's may undertake reasonable efforts to communicate with and obtain information from the
28 affected Class Member (or the Class Member's representative) to support the affected Class Member's

1 contentions. The Settlement Administrator shall evaluate all relevant evidence and, in consultation with
2 Parties' Counsel, shall render a final decision regarding the Workweek/PAGA Pay Period Dispute.

3 c. Notice to Affected Class Members Regarding Workweek/PAGA Pay Period
4 Dispute Investigation and Resolution. No later than three (3) business days of rendering its final decision
5 regarding a Workweek/PAGA Pay Period Dispute, the Settlement Administrator shall send the affected
6 Class Member written notice of its decision via United States Mail, facsimile and/or electronic mail, which
7 shall: (a) indicate whether the Settlement Administrator found the Workweek/PAGA Pay Period Dispute
8 wholly or partly meritorious, unmeritorious, or that it was unable to make a merits determination and the
9 reasons why it made such a finding; (b) indicate the number of Workweeks and/or PAGA Pay Periods
10 that the Settlement Administrator presently intends to credit the affected Class Member including the
11 number of additional Workweeks or PAGA Pay Periods, if any, and any corresponding changes to the
12 estimated Individual Settlement Payment or Individual PAGA Payment that the affected Class Member
13 may receive; and (c) indicate that the Settlement Administrator's final decision is subject to Court review
14 and that the Final Approval Hearing may be the best and final opportunity for the affected Class Member
15 to seek the Court's review or intervention.

16 81. Determination of Timeliness and Validity of Opt-Out Requests. Subject to Parties' Counsel
17 and Court review, the Settlement Administrator shall determine whether the submission of an Opt-Out
18 Request is timely and valid.

19 a. Opt-Out Request Timeliness. The Settlement Administrator shall determine
20 whether an Opt-Out Request is timely based on the postmarked date on the mailing envelope, or by other
21 indicia of timeliness. If the postmarked date or other indicia shows the request was submitted after the
22 Response Deadline, then the Settlement Administrator shall conclude that the submission was untimely,
23 which may render the submission null, void and ineffective.

24 b. Opt-Out Request Validity. The Settlement Administrator shall determine whether
25 an Opt-Out Request is valid based on whether it is in writing and includes the five (5) enumerated items
26 required for validity. If the request is submitted orally or a written submission is ambiguous or lacks any
27 of the five (5) enumerated items required for validity, then the Settlement Administrator shall conclude
28 that the submission is invalid, which may render the submission null, void and ineffective.

1 c. Opt-Out Request Cure Notices and Notice to the Court. No later than three (3)
2 business days after the Settlement Administrator concludes that an Opt-Out Request is untimely or invalid
3 prior to the Final Approval Hearing, the Settlement Administrator shall attempt to communicate with the
4 affected Class Member to request that the affected Class Member cure any deficiencies in writing.
5 Regardless of the timeliness or validity of any Opt-Out Request, the Parties shall ensure that all Opt-Out
6 Requests or any other written statements arguably constituting a timely and valid Opt-Out Request are
7 brought to the Court's attention in advance of the Final Approval Hearing.

8 82. Determination of Timeliness and Validity of Objections. Subject to Parties' Counsel and
9 Court review, the Settlement Administrator shall determine whether the submission of an Objection is
10 timely and valid.

11 a. Objection Timeliness. The Settlement Administrator shall determine whether an
12 Objection is timely based on the postmarked date on the mailing envelope, or by other indicia of
13 timeliness. If the postmarked date or other indicia shows the objection was submitted after the Response
14 Deadline, then the Settlement Administrator shall conclude that the submission was untimely, which may
15 render the submission null, void and ineffective.

16 b. Objection Validity. The Settlement Administrator shall determine whether an
17 Objection is valid based on whether it is in writing and includes the five (5) enumerated items required
18 for validity. If the request is submitted orally or a written submission is ambiguous or lacks any of the five
19 (5) enumerated items required for validity, then the Settlement Administrator shall conclude that the
20 submission is invalid, which may render the submission null, void and ineffective.

21 c. Objection Cure Notices and Notice to the Court. No later than three (3) business
22 days after the Settlement Administrator concludes that an Objection is untimely or invalid prior to the
23 Final Approval Hearing, the Settlement Administrator shall attempt to communicate with the affected
24 Class Member to request that the affected Class Member cure any deficiencies in writing. Regardless of
25 the timeliness or validity of any Objection, the Parties shall ensure that all Objections or any other written
26 statements arguably constituting a timely and valid Objection are brought to the Court's attention in
27 advance of the Final Approval Hearing.

28 ///

IX. FINAL APPROVAL AND FINAL JUDGMENT AND FINAL JUDGMENT

83. Motion for Final Approval of Settlement. No later than sixteen (16) court days before the Final Approval Hearing, Plaintiff shall file a motion for final approval, seeking, among other things, entry of a Final Approval Order, which shall, among other things, finally certify the Class for settlement purposes only, order Defendant to remit the Gross Settlement Amount to the Settlement Administrator, approve and order the Settlement Administrator to distribute the amounts payable pursuant to the Settlement and set a date for the Court's review of the Settlement fund distribution.

84. Final Judgment. At the time Plaintiff moves for final approval of the Settlement, Plaintiff shall also move the Court to enter a Final Judgment, which shall, among other things, finally adjudge this Action and include a provision for the retention of the Court's jurisdiction over the Parties including the Class to enforce the terms of the judgment.

a. Settlement Administrator's Report in Advance of Final Approval Hearing. The Settlement Administrator shall, prior to the Final Approval Hearing and at the Parties' request, provide written reports or declarations to the Parties describing, among other things, the process and results of the settlement administration process, the number of Opt-Out Requests received (both timely and valid or otherwise), Objections received (both timely and valid or otherwise), Workweeks/Pay Periods Disputes received (both timely and valid or otherwise) and the actual or projected Settlement Administration Costs to date, which reports or declarations Plaintiff may file with the Court prior to the Final Approval Hearing.

b. Notice of Final Approval Order and Final Judgment. If the Court enters the Final Judgment, then the Settlement Administrator shall post copies of the Final Approval Order and Final Judgment for two hundred forty (240) calendar days on its website and Plaintiff shall cause copies of the Final Approval Order and Final Judgment to be submitted to the LWDA. No individualized notice regarding the entry of the Final Approval Order and Final Judgment shall be required to be provided to the Class.

X. SETTLEMENT ADMINISTRATION AFTER FINAL APPROVAL AND THE EFFECTIVE DATE

85. Establishment of a Qualified Settlement Fund After Final Approval. No later than seven (7) days after the Court enters a Final Approval Order, the Settlement Administrator shall establish a

1 qualified settlement fund, account, or trust pursuant to applicable state and federal rules and regulations
2 to hold the Gross Settlement Amount.

3 a. Defendant's Payment of the Gross Settlement After Final Approval. No later than
4 fourteen (14) days after the Court enters a Final Approval Order, Defendant shall remit the Gross
5 Settlement Amount in its entirety to the Settlement Administrator via secure wire transfer or by other
6 secure means and the Settlement Administrator shall report to the Parties whether it received the entire
7 Gross Settlement Amount in a timely manner within three (3) business days.

8 b. Distribution Process and Court Intervention if Gross Settlement Amount is
9 Untimely or Incomplete. If Defendant fails to remit the entire Gross Settlement Amount to the Settlement
10 Administrator in full on the date it is due or within a reasonable time thereafter, then the Settlement
11 Administrator shall refrain from distributing any part of the Gross Settlement Amount until the Parties
12 provide the Settlement Administrator further instruction including by way of the Court's intervention or
13 further orders.

14 c. Interest on Gross Settlement Amount that is Untimely or Incomplete. If Defendant
15 fails to remit the entire Gross Settlement Amount to the Settlement Administrator in full on the date it is
16 due, then Defendant shall be obligated to pay the legal rate of interest on all amounts due and owing until
17 Defendant remits the entire Gross Settlement Amount to the Settlement Administrator along with the
18 accrued interest; the accrued interest shall remain part of the Net Settlement Amount and shall be
19 distributed to Participating Class Members.

20 86. Settlement Fund Distribution After Effective Date. No later than seven (7) days after
21 receiving the Gross Settlement Amount in full and the Effective Date occurs, the Settlement Administrator
22 shall distribute all payments from the Settlement fund. The Parties and Parties' Counsel shall have the
23 right to monitor and review the administration of the Settlement to verify that monies allocated under this
24 Settlement Agreement are distributed to the correct persons and in correct amounts in keeping with the
25 Final Approval Order and Final Judgment.

26 a. Settlement Administration Costs Distribution. The Settlement Administrator shall
27 distribute Settlement Administration Costs to itself for the Settlement Administrator's execution of
28 settlement administration duties.

1 b. Class Representative Service Award Distribution. The Settlement Administrator
2 shall distribute the Class Representative Service Award to Plaintiff via a check in Plaintiff's name, but
3 mailed to Class Counsel, separate from any Individual Settlement Payment and Individual PAGA
4 Payment, for Plaintiff's efforts and risks in bringing and resolving the Action, which the Settlement
5 Administrator shall report as non-wage income on IRS Form 1099-MISC.

6 c. Class Counsel Fee Award Distribution. The Settlement Administrator shall
7 distribute the Class Counsel Fee Award to Class Counsel via secure wire transfer as reasonable attorneys'
8 fees for litigating and resolving the Action, which the Settlement Administrator shall report as non-wage
9 income on IRS Form 1099-MISC.

10 d. Class Counsel Cost Award Distribution. The Settlement Administrator shall
11 distribute the Class Counsel Fee Award to Class Counsel via secure wire transfer for reimbursement of
12 Class Counsel's reasonable litigation expenses incurred in litigating and resolving the Action, which the
13 Settlement Administrator shall report as non-wage income on IRS Form 1099-MISC.

14 e. PAGA Payment to the LWDA Distribution. The Settlement Administrator shall
15 distribute the PAGA Payment to the LWDA via secure wire transfer or by other secure means to the
16 LWDA as its seventy-five percent (75%) share of the PAGA Payment.

17 f. Individual PAGA Payment Distribution. The Settlement Administrator shall
18 distribute Individual PAGA Payment checks to all PAGA Members via bulk First Class United States
19 Mail addressed to each PAGA Members' last known mailing address based on data in the Class List
20 including all updated data resulting from Class Members' timely and valid Opt-Out Requests and the
21 resolution of Workweek/PAGA Pay Period Disputes, which the Settlement Administrator shall report as
22 non-wage income on IRS Form 1099-MISC.

23 g. Individual Settlement Payment Distribution. The Settlement Administrator shall
24 distribute Individual Settlement Payment checks to all Participating Class Members via bulk First Class
25 United States Mail addressed to each Participating Class Members' last known mailing address based on
26 data in the Class List including all updated data resulting from Class Members' timely and valid Opt-Out
27 Requests and the resolution of Workweek/PAGA Pay Period Disputes, which the Settlement
28 Administrator shall report as twenty percent (20%) wages, subject to reduction for applicable employee

1 payroll taxes and customary withholdings, on IRS Form W-2s and eighty percent (80%) as non-wage
2 income on IRS Form 1099-MISC.

3 87. 120-Day Reminder Postcard for Uncashed Individual Settlement Payment and Individual
4 PAGA Payment Checks Void. No later than one hundred and twenty (120) days of mailing Individual
5 Settlement Payment and Individual PAGA Payment checks in bulk, the Settlement Administrator shall
6 mail a reminder postcard to all Participating Class Members and PAGA Members, who have not cashed
7 or deposited their Individual Settlement Payment or Individual PAGA Payment checks, that indicates their
8 Individual Settlement Payment or Individual PAGA Payment checks shall become void if they are not
9 cashed or deposited by a date certain.

10 a. Check Reissuance and Re-Mailing Prior to Void Date. The Settlement
11 Administrator shall, prior to the date that all Individual Settlement Payment or Individual PAGA Payment
12 checks become void, reissue any misrouted, misplaced, lost or stolen Individual Settlement Payment or
13 Individual PAGA Payment checks to an affected Participating Class Member or PAGA Member, so long
14 as the affected Participating Class Member or PAGA Member's original Individual Settlement Payment
15 or Individual PAGA Payment check has not been cashed or deposited.

16 b. Transfer of Void Individual Settlement Payment and Individual PAGA Payment
17 Amounts to the Cy Pres Recipient. No later than fourteen (14) days after Individual Settlement Payment
18 and Individual PAGA Payment checks become void, the Settlement Administrator shall transfer all
19 amounts associated with the voided checks via secure wire transfer to the Justice Gap Fund, one of three
20 significant sources of funding for about 100 legal aid organizations across the state providing free civil
21 legal services to low-income Californians and with whom the Parties and Parties' Counsel have no
22 connection or affiliation that could create an appearance of a conflict of interest.

23 88. Settlement Administrator's Report Following Settlement Fund Distribution. After
24 settlement fund distribution, and at the Parties' and Parties' Counsel's joint or independent requests, the
25 Settlement Administrator shall provide written reports or declarations to the Parties and Parties' Counsel
26 describing, among other things, the results of the settlement fund distribution process, including an
27 accounting of: (1) Individual Settlement Payments; (2) Settlement Administration Costs; (3) the PAGA
28 Payment to the LWDA; (4) Individual PAGA Payments; (5) the Class Representative Service Award; (6)

the Class Counsel Fee Award; and (7) the Class Counsel Cost Award payable under this Settlement as well as the transfer of all residue to the *Cy Pres* Recipient, which report or declarations Plaintiff may file with the Court.

XI. ADDITIONAL SETTLEMENT PROVISIONS

89. Intent to be Binding. The Parties intend this Settlement Agreement to be fully binding on each other and that the Court shall have jurisdiction to enforce the terms and conditions of the Settlement Agreement pursuant to Code of Civil Procedure section 664.6 (or the federal equivalent) upon noticed motion. If any of the Parties breach any terms of this Settlement Agreement and an action is brought to enforce its terms, then the prevailing party in any enforcement action shall be entitled to recover reasonable attorneys' fees and costs.

90. Defendant's Notice and Option to Rescind or Void Settlement. If more than ten percent (10%) of Class Members submit timely and valid Opt-Out Requests, then Defendant may, in its discretion, rescind or terminate its obligations under this Settlement Agreement, subject to Defendant's obligation to pay the Settlement Administrator all Settlement Administration Costs incurred up to that date. Defendant must exercise this right within thirty (30) days after the Settlement Administrator notifies the Parties of the number of timely and valid Opt-Out Requests received, which the Settlement Administrator shall report to the Parties ten (10) days after the Response Deadline. The Plaintiff will not opt-out of nor object to the Settlement Agreement based on the number of opt-outs to the Settlement Agreement.

91. Continuing Jurisdiction of the Court. Following entry of Final Judgment, the Court shall retain jurisdiction with respect to the interpretation, implementation and enforcement of the terms of this Settlement Agreement and all orders and directives entered in connection therewith. Parties and Parties' Counsel shall submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing this Settlement Agreement and all orders and directives entered in connection therewith.

a. Interim Stay of Action. The Parties agree to stay and shall request that the Court stay all proceedings in the Action, except such proceedings necessary to obtain preliminary and final approval of the Settlement to fully implement this Settlement Agreement up to the time the Court enters Final Judgment and the distribution of Settlement funds occurs.

b. Effect of Settlement Not Being Final. If this Settlement Agreement does not

1 become final by way of entry of a Final Judgment or by a denial of a preliminary approval or a final
2 approval with prejudice that binds the Parties from exercising their rights to renegotiate a settlement over
3 the same or similar subject matter, then it shall be rendered null and void ab initio. If this Settlement
4 Agreement is rendered null and void ab initio, then no Class Member or person shall use this Settlement
5 Agreement to support any claim or request for class certification in the Action or in any other civil
6 proceeding against Defendant. The Parties shall, accordingly, proceed in all respects as if this Settlement
7 Agreement had not been executed, except that Plaintiff, on the one hand, and Defendant, on the other
8 hand, shall pay the Settlement Administration Costs incurred to date to the Settlement Administrator in
9 fifty percent (50%) shares.

10 c. Agreement to Cooperate if Court Does Not Approve Settlement. If the Court does
11 not finally approve this Settlement for any reason and in a manner that does not bind the Parties from
12 exercising their rights to renegotiate a settlement over the same or similar subject matter, then the Parties
13 agree to cooperate to reach a settlement that may be approved by the Court.

14 d. Best Efforts and Cooperation. The Parties and Parties' Counsel pledge their good
15 faith and fair dealing in supporting the approval of this Settlement Agreement by the Court, including, but
16 not limited to, fully documenting the settlement, timely delivering documents and information to each
17 other, completing or filing any other required documents or pleadings, arguing that the terms and
18 conditions agreed upon should be enforced fully, commencing any required action (either in court or in
19 arbitration), and jointly appealing and/or otherwise exhausting judicial review of any adverse ruling.
20 Defendant agrees that it shall not oppose Plaintiff's motion for preliminary approval or motion for final
21 approval nor any motions or requests for fees, costs, or awards so long as Plaintiff's motions and requests
22 are materially consistent with the terms and provisions of this Settlement Agreement.

23 e. Resolution of Disputes. If the Parties are unable to reach agreement on the form or
24 content of any document needed to implement the Settlement, or on any supplemental provision that may
25 become necessary to effectuate the terms of this Settlement Agreement, then the Parties may seek the
26 assistance of the Court and/or mediator Tripper Ortman to resolve such disagreement.

27 f. No Discouragement of Class Member Participation or Obstruction of Settlement.
28 The Parties and Parties' Counsel agree not to encourage Class Members to file Opt-Out Requests,

1 Objections, oppositions or other motions that oppose the entry of a Preliminary Approval Order or a Final
 2 Approval Order that approves this Settlement Agreement, appeal the entry of the Final Judgment or
 3 otherwise obstruct the full and final settlement of the Action including by refraining from obtaining
 4 waivers or *Pick Up Stix* agreements from Class Members.

5 g. Confidentiality Limitation on Public Statements About Settlement. Other than to
 6 present this Settlement to the Court for preliminary and final approval, the Parties and Parties' Counsel
 7 agree to limit public comment on this settlement, the case, and the claims to stating that the matter has
 8 been resolved to the satisfaction of the Parties. Neither side will initiate public comment.

9 h. Neutral Employment Reference. If Defendant receives any oral and/or written
 10 requests from prospective employers or other persons about Plaintiff's employment with Defendant, then
 11 Defendant shall provide a neutral and objective employment reference, which may include no more than
 12 the substance of the following information: that Defendant currently or formerly employed Plaintiff; the
 13 start date and end date of Plaintiff's respective periods of employment; Plaintiff's job title(s) while
 14 employed; and Plaintiff's current or final pay rates. Defendant shall refrain from subjectively
 15 characterizing Plaintiff's personal characteristics, qualities, or job performance in any manner and shall
 16 not refer to the Action or this Settlement Agreement.

17 92. Authorization to Enter into Settlement Agreement and Indemnification. Parties' Counsel
 18 warrant and represent they were expressly authorized by the Parties whom they respectively represent to
 19 negotiate this Settlement Agreement and to take all appropriate actions required or permitted to be taken,
 20 on behalf of the Class, to effectuate its terms. The person signing this Settlement Agreement on behalf of
 21 Defendant represents and warrants that he or she is authorized to sign this Settlement Agreement on behalf
 22 of Defendant and Defendant shall indemnify any losses incurred as a result of any ultra vires act. Plaintiff
 23 represents and warrants that Plaintiff has not assigned any claim, or part of a claim, covered by this
 24 Settlement Agreement to any third-party.

25 a. California Law Governs. All terms of this Settlement Agreement and the Exhibits
 26 attached hereto shall be governed by and interpreted according to the laws of the State of California.
 27 However, if any material inconsistencies or ambiguities arise during the construction and interpretation of
 28 the terms and provisions of any of the Exhibits as compared to the terms and provisions in this Settlement

1 Agreement, then the terms and provisions in this Settlement Agreement shall control.

2 b. Method of Signature and Counterparts. This Settlement Agreement may be
3 executed by facsimile, electronic, document scan, or other means, in one or more counterparts or
4 duplicates of originals and each of them shall be deemed an original and shall constitute one instrument.

5 c. Amendment or Modification. This Settlement Agreement shall not be amended or
6 modified in any material respect unless by a written instrument signed by the Parties.

7 d. Binding on Successors and Assigns. This Settlement Agreement shall be binding
8 upon and inure to the benefit of the Parties' successors and assigns.

9 e. Headings. The descriptive headings of any paragraphs or sections of this Settlement
10 Agreement including the capitalized terms therein are inserted for convenience only.

11 f. Construction. The Parties have drafted this Settlement Agreement together. Hence,
12 in any construction of this Settlement Agreement, the same shall not be construed against any of the Parties
13 by reason of any claim that one of the Parties drafted the Settlement Agreement.

14 g. Invalidity of Any Provision. If any term or provision of this Settlement Agreement
15 is deemed invalid, then the Parties agree that the Court should strike the invalid term or provision and then
16 fully construe the remaining terms and provisions valid and in a manner resulting in a construction giving
17 all remaining terms and provisions of this Settlement Agreement validity and enforceability.

18 h. Waivers. The waiver of any breach of this Settlement Agreement shall not be
19 deemed or construed as a waiver of any other breach of this Settlement Agreement, whether prior,
20 subsequent, contemporaneous or continuing.

21 93. Severability. If one or more of the provisions contained in this Settlement Agreement is
22 deemed or held invalid, illegal, or unenforceable in any respect, then the invalid, illegal, or unenforceable
23 provisions shall be deemed stricken and the remaining provisions shall remain valid, illegal and
24 enforceable including if Defendant's Counsel and Class Counsel, on behalf of the Parties and the Class,
25 mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been
26 included in this Settlement Agreement, as necessary, or in lieu of written amendment or modification.

27 94. Entire Agreement. This Settlement Agreement and the attached Exhibits constitute the
28 entire agreement between the Parties. The Exhibits to this Settlement Agreement are an integral part of

1 the Settlement. No oral or written representations, warranties, or inducements have been made to Plaintiff
2 or Defendant concerning this Settlement Agreement other than the representations, warranties and
3 covenants contained and memorialized in this Settlement Agreement. No other prior or contemporaneous
4 written or oral agreements regarding the subject matter herein shall be deemed binding on the Parties.

5 **IT IS SO STIPULATED.**

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1 DATED: _____

Plaintiff JOSE LAINEZ

2
3 By: _____
JOSE LAINEZ

4
5 DATED: 6/23/22

Defendant E. TURMAN AND COMPANY, INC., a
California Corporation, dba TURMAN
COMMERCIAL PAINTERS

6
7
8 By:  _____
DAVID THEOBALD

9 President, E. TURMAN AND COMPANY, INC., a
California Corporation, dba TURMAN
COMMERCIAL PAINTERS

10
11 APPROVED AS TO FORM:

12 DATED: _____

MOON & YANG, APC

13
14 By: _____
KANE MOON
ROY K. SUH

15 Attorneys for Plaintiff JOSE LAINEZ, individually,
and on behalf of all others similarly situated

16
17 DATED: 6/30/22

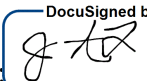
SIMPSON, GARRITY, INNES & JACUZZI, PC

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19
20 By:  _____
PAUL V. SIMPSON
MATTHEW A. MALLET

21 Attorneys for Defendant E. TURMAN AND
COMPANY, INC., a California Corporation, dba
TURMAN COMMERCIAL PAINTERS

1 DATED: 7/8/2022

Plaintiff JOSE LAINEZ

2 DocuSigned by:
3 By: 
4 JOSE LAINEZ

5 DATED: _____

Defendant E. TURMAN AND COMPANY, INC., a
California Corporation, dba TURMAN
COMMERCIAL PAINTERS

7 By: _____
8 DAVID THEOBOLD

9 President, E. TURMAN AND COMPANY, INC., a
10 California Corporation, dba TURMAN
COMMERCIAL PAINTERS

11 **APPROVED AS TO FORM:**

12 DATED: July 8, 2022

MOON & YANG, APC

13 By: 
14 KANE MOON
15 ROY K. SUH

16 Attorneys for Plaintiff JOSE LAINEZ, individually,
17 and on behalf of all others similarly situated

18 DATED: _____

SIMPSON, GARRITY, INNES & JACUZZI, PC

19 By: _____
20 PAUL V. SIMPSON
21 MATTHEW A. MALLET

22 Attorneys for Defendant E. TURMAN AND
23 COMPANY, INC., a California Corporation, dba
24 TURMAN COMMERCIAL PAINTERS

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EXHIBIT 1
(Draft Class Notice)

NOTICE OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT

Lainez v. E. Turman and Company, Inc. dba Turman Commercial Painters
Alameda County Superior Court, Case No. RG21091805

A COURT AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION BY A LAWYER.

YOU ARE NOT BEING SUED.

IF YOU ARE OR WERE EMPLOYED BY E. TURMAN AND COMPANY, INC. DBA TURMAN COMMERCIAL PAINTERS AS A NON-EXEMPT EMPLOYEE IN THE STATE OF CALIFORNIA AT ANY TIME BETWEEN MARCH 16, 2017 AND JULY 31, 2022, THEN THIS CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

Why should you read this Notice?

A proposed settlement (the “Settlement” or “proposed Settlement”) has been reached in class and representative action entitled *Lainez v. E. Turman and Company, Inc. dba Turman Commercial Painters*, Alameda County Superior Court, Case No. RG21091805 (the “Action”). The purpose of this Notice of Class and Representative Action Settlement (“Class Notice”) is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action. A formal Settlement Agreement is filed with the Court, which you may request a copy of, as described below. If there are any material inconsistencies between this notice and the Settlement Agreement, then subject to Court review, the provisions in the Settlement Agreement shall control.

The Court has preliminarily approved the Settlement’s payment provisions and other terms and conditions described in this notice. The Honorable Brad Seligman will determine whether the Settlement is fair, adequate and reasonable and whether a Final Approval Order and a Final Judgment should be entered during a Final Approval Hearing at [FINAL APPROVAL HEARING DATE & TIME] in Department 23 of the Alameda County Superior Court, located at 225 Fallon Street, Oakland, California 94612. Because the date and time of the Final Approval Hearing may change without further notice, you should contact the Settlement Administrator or Class Counsel for further updates.

IF YOU DO NOT REQUEST TO BE EXCLUDED OR “OPT-OUT” OF THE SETTLEMENT ON TIME AND THE COURT ENTERS A FINAL APPROVAL ORDER AND A FINAL JUDGMENT, THEN YOU MAY BE ENTITLED TO AN INDIVIDUAL SETTLEMENT PAYMENT AND MAY BE BOUND BY THE RELEASE OF THE “RELEASED CLAIMS” DESCRIBED IN THIS NOTICE.

YOUR RIGHTS AND OPTIONS IN THIS SETTLEMENT

Do nothing	If you do nothing, then you will be considered part of the Class and will receive settlement benefits as explained more fully below. You will also give up various rights to pursue a separate legal action against Defendant E. TURMAN AND COMPANY, INC. dba TURMAN COMMERCIAL PAINTERS (“Defendant”) and any Released Parties based on any of the Released Claims.
Request to exclude yourself from or “Opt-Out” of the Settlement	If you do not want to participate in this Settlement, then you must exclude yourself from or “Opt-Out” of the Settlement, by writing to the Settlement Administrator by [RESPONSE DEADLINE]. If you choose to Opt-Out, then you will not receive any benefits under the Settlement nor will you release any claims against Defendant. If you qualify as a PAGA Member, however, then you will still receive an Individual PAGA Payment even if you choose to Opt-Out.
Object to the Settlement	If you wish to object to the Settlement, then you must write to the Settlement Administrator by [RESPONSE DEADLINE], about why you object to the Settlement. This option is available only if you do not Opt-Out of the Settlement.
Contest or dispute your Workweek or PAGA Pay Period credits	If you wish to contest or dispute the number of Workweek or PAGA Pay Period credits the Settlement Administrator intends on assigning to you for the purpose of calculating your share of the Settlement funds, then you must write to the Settlement Administrator by [RESPONSE DEADLINE], about why you dispute the credits and provide supporting documentation that you possess to support your dispute.

Who is affected by this proposed Settlement?

The Court has certified, for settlement purposes only, the following class of persons (the “Class”):

All current or former hourly non-exempt construction employees including, but not limited to, painters, laborers and drivers that Defendant employed in the State of California at any time from March 16, 2017 to July 31, 2022 (“Class Period”).

According to Defendant’s records, you are a member of the Class (“Class Member”).

What is this Action about?

Plaintiff Jose Lainez (“Plaintiff”), individually, and on behalf of the Class, alleges Defendant: (1) failed to pay minimum wages; (2) failed to pay overtime wages; (3) failed to provide required meal periods; (4) failed to provide required rest

periods; (5) failed to indemnify employees for necessary expenditures; (6) failed to furnish accurate itemized wage statements; (7) failed to pay timely and all wages due to discharged and quitting employees; (8) engaged in unfair and unlawful business practices under California Business and Professions Code section 17200, *et seq.*; (9) and engaged in conduct giving rise to civil penalties pursuant to the California Labor Code Private Attorneys General Act (“PAGA”).

Plaintiff believes this Settlement is in the best interests of all Class Members. Defendant denies all liability and is confident it has strong legal and factual defenses to these claims, but it recognizes the risks, distractions and costs associated with continued litigation. Defendant contends that its conduct is and has been lawful at all relevant times and that Plaintiff’s claims do not have merit and do not meet the requirements for class certification. This Settlement is a compromise reached after good faith, arm’s length negotiations between Plaintiff and Defendant (the “Parties”). Considering the risks and expenses associated with continued litigation, the Parties agree this Settlement is fair, adequate and reasonable.

The Court has not ruled on the merits of Plaintiff’s claims or Defendant’s defenses.

Who are the attorneys representing the Class?

The attorneys representing the Class in the Action (“Class Counsel”) are:

Attorneys for Plaintiff and Class Counsel

Kane Moon (Cal. SBN 249834)

Roy K. Suh (Cal. SBN 283988)

MOON & YANG, APC

1055 West Seventh Street, Suite 1880

Los Angeles, California 90017

Telephone: (213) 232-3128

Facsimile: (213) 232-3125

What are the Settlement payment terms?

Gross Settlement Amount. The “Gross Settlement Amount” of \$285,000.00 includes: (1) the amount of all Individual Settlement Payments to Class Members who do not Opt-out (“Participating Class Members”); (2) Settlement Administration Costs to the Settlement Administrator; (3) the PAGA Payment to the California Labor and Workforce Development Agency (“LWDA”); (4) Individual PAGA Payments to PAGA Members; (5) a Class Representative Service Award to Plaintiff; (6) the Class Counsel Fee Award to Class Counsel; and (7) the Class Counsel Cost Award to Class Counsel.

Net Settlement Amount. The “Net Settlement Amount” is currently estimated to be \$145,000.00. The Net Settlement Amount is subject to a final accounting and will be the amount remaining for disbursement to Participating Class Members after the following amounts are deducted from Gross Settlement Amount: (1) Settlement Administration Costs estimated not to exceed \$10,000.00; (2) the \$7,500.00 PAGA Payment to the LWDA for PAGA penalties; (3) the \$2,500.00 aggregate PAGA Payment to PAGA Members; (4) the \$5,000.00 Class Representative Service Award to Plaintiff; (5) the greater of \$95,000.00 or one-third (1/3) of the Gross Settlement Amount as a Class Counsel Fee Award to Class Counsel; and (6) and a Class Counsel Cost Award not to exceed \$20,000.00.

Individual Settlement Payments to Participating Class Members. The Settlement Administrator shall disburse Individual Settlement Payments from the estimated \$145,000.00 Net Settlement Amount to Participating Class Members based on the Workweek credits assigned to them. Individual Settlement Payments shall be characterized as 20% wages, subject to IRS Form W-2 reporting, and 80% non-wages, subject to IRS Form 1099 reporting. The Settlement Administrator shall deduct applicable local, state and federal taxes from the wage portion of the Individual Settlement Payments only.

Individual PAGA Payments to PAGA Members. If you worked for Defendant in the State of California as an hourly non-exempt construction employee including, but not limited to, as a painter, laborer and driver at any time from March 13, 2020 to July 31, 2022 (“PAGA Period”), then you may also be a PAGA Member. The Settlement Administrator shall disburse Individual PAGA Payments from the \$2,500.00 aggregate PAGA Payment to PAGA Members based on the Pay Period credits assigned to them. Individual PAGA Payments shall be characterized as 100% non-wages, subject to IRS Form 1099 reporting.

PAGA Members Cannot opt-out of the “PAGA Component” of the Settlement. If you are a PAGA Member and the Settlement becomes final, then you will be entitled to an Individual PAGA Payment even if you choose to Opt-out of the Class component of the Settlement. This is because Individual PAGA Payments do not constitute consideration offered or exchanged for the release of any Class Members’ individual, private rights of action. In other words, PAGA Members cannot opt-out of the PAGA component of the Settlement but they can still preserve their individual, private rights to sue Defendant for any of the Released Claims as long as they Opt-out the “Class component” of the Settlement on time.

Checks Void at 180 Days & Transfer to The Justice Gap Fund. If Settlement becomes final, then the Settlement Administrator shall mail Individual Settlement Payment and Individual PAGA Payment checks no sooner than 75 days thereafter. If any Individual Settlement Payment or Individual PAGA Payment checks remain uncashed 180 days after the Settlement Administrator’s initial bulk mailing, then the uncashed checks will become void and transferred to the Justice Gap Fund, a significant source of funding for about 100 legal aid organizations across the state providing free civil legal services to low-income Californians, and affected Participating Class Members shall remain bound by the Settlement.

No Tax Advice. Parties and their attorneys make no representations concerning the tax consequences of this Settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel is unable to offer advice concerning any tax consequences of payments to any Class Member.

How much money should you expect as an Individual Settlement Payment and an Individual PAGA Payment?

Individual Settlement Payment Calculations. The Settlement Administrator shall determine Individual Settlement Payment amounts by (1) dividing the Net Settlement Amount by the aggregate number of Workweek credits assigned to all Participating Class Members, resulting in the “Workweek Dollar Value” amount; and (2) multiplying the Workweek Dollar Value with the number of Workweek credits assigned to each Participating Class Member.

Workweek Credits. The Settlement Administrator shall credit each individual Participating Class Member with a single Workweek credit for every calendar week that the individual Participating Class Member worked at least one day or is otherwise identifiable, in Defendant’s personnel records, as Defendant’s employee in the state of California during the Class Period. Defendant estimates Class Members worked for Defendant during an aggregated **XX,XXX** Workweeks.

Individual PAGA Payment Calculations. The Settlement Administrator shall determine Individual PAGA Payment amounts by (1) dividing the PAGA Payment to PAGA Members by the aggregate number of PAGA Pay Period credits assigned to all PAGA Members, resulting in the “PAGA Pay Period Dollar Value” amount; and (2) multiplying the PAGA Pay Period Dollar Value with the number of PAGA Pay Period credits assigned to each PAGA Member.

PAGA Pay Period Credits. The Settlement Administrator shall credit each individual PAGA Member with a single PAGA Pay Period credit for every calendar week that the individual PAGA Member worked at least one day or is otherwise identifiable, in Defendant’s personnel records, as Defendant’s employee in the State of California during the PAGA Period. Defendant estimates PAGA Members worked for Defendant during an aggregated **XX,XXX** PAGA Pay Periods.

Your Preliminarily Assigned Workweeks and PAGA Pay Periods and Estimated Individual Settlement Payment and Individual PAGA Payment: Defendant has provided the Settlement Administrator with the dates all Class Members and PAGA Members worked during the Class Period and PAGA Period. Based on Defendant’s records, the Settlement Administrator intends to credit you with the following Workweek and PAGA Pay Period credits:

<<**Total Workweeks**>> Workweek Credits

<<**Total Workweeks**>> PAGA Pay Period Credits

Based on the Preliminary Workweek Dollar Value of <<**\$X.XX.00**>> and the preliminary PAGA Pay Period Dollar Value of <<**\$X.XX.00**>>, **your estimated Individual Settlement Payment and estimated Individual PAGA Payment are:**

<<**EstSettPayment**>> Individual Settlement Payment

<<**EstPAGAPayment**>> Individual PAGA Payment

Please note that the foregoing amounts are only estimates before a final accounting is conducted and before all required legal deductions; your actual payment may be greater or smaller than the amount reported above.

Who are the Released Parties and what claims will be released by the proposed Settlement’s Released Claims?

The Effective Date of the Settlement. The “Effective Date” is the date that the Class is served notice of the Court’s entry of a Final Judgment in the manner specified by the Court and (i) sixty-five (65) days after the Court enters Final Judgment and no appeal, writ or other challenge to the finality of the judgment has been filed; or (ii) five (5) days after the day when all appeals, writs or other challenges to the Final Judgment have been resolved in a manner that affirms the finality of the judgment and the time for the filing of any further appeals, writs or other challenges has lapsed, whichever date is later.

Participating Class Members’ Release of Released Claims Against Released Parties. If Defendant remits the Gross Settlement Amount in full to the Settlement Administrator and the Effective Date occurs, then Plaintiff and each Participating Class Member shall be deemed to have fully, finally and forever released:

- The “Released Parties” who consist of Defendant and all its present and former parent companies, subsidiaries, shareholders, owners, employees, officers, directors, agents, attorneys, insurers, successors and assigns, who could be held liable for any of the Released Claims.
- The “Released Claims” means all claims, rights, demands, liabilities and causes of action arising during the Class Period that were alleged or reasonably could have been alleged based on the facts asserted in the operative complaint in the Action, including the following claims or causes of action: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide required meal periods; (4) failure to provide required rest periods; (5) failure to indemnify employees for necessary expenditures incurred in discharge of duties; (6) failure to furnish accurate itemized wage statements; (7) failure to pay timely and all wages due to discharged and quitting employees; (8) unfair and unlawful business practices; and (9) civil penalties pursuant to PAGA and includes the release of PAGA Claims.

California’s Release of PAGA Claims Against Released Parties. On the Effective Date, the State of California, by and through Plaintiff, its deputized PAGA representative, shall be deemed to have settled and released all PAGA Claims against

the Released Parties. “PAGA Claims” means all claims or causes of action under PAGA that could have been premised on the claims, causes of action, or legal theories of relief alleged in Plaintiff’s March 12, 2021 PAGA notice to the LWDA and Defendant in LWDA Case No. LWDA-CM-825754-21 and that were alleged or reasonably could have been alleged based on the facts asserted in the operative complaint in the Action including, but not limited to, violations of the California Labor Code and California Industrial Welfare Commission Wage Orders.

What are my options in this matter?

Class Members’ Four Options and Communications with the Settlement Administrator & Class Counsel. You have four (4) options under this Settlement. You may: (A) do nothing and remain in the Class and receive an Individual Settlement Payment; (B) request to exclude yourself from or “Opt-Out” of the Settlement; (C) object to the Settlement; and (D) contest or dispute your Workweek or PAGA Pay Period credits. All Opt-Out Requests, Objections and Workweek/PAGA Pay Period Disputes must be submitted to the Settlement Administrator at: Settlement Administrator for *Lainez v. E. Turman and Company, Inc. dba Turman Commercial Painters* P.O. Box _____, [City], [State] [Zip] by United States Mail, facsimile and/or in other written form by no later than [RESPONSE DEADLINE DATE]. The Settlement Administrator is authorized to communicate with you if you exercise any of these options under this Settlement. Additionally, unless you clearly state that you do not wish to be contacted by Class Counsel, Class Counsel may contact you to resolve any uncertainties about the validity of any Opt-Out Requests, Objections or Workweek/PAGA Pay Period Disputes you submit.

OPTION A. (Do Nothing). If you wish to remain in the Class and be eligible to receive an Individual Settlement Payment under the proposed Settlement, then **you do not need to take any action and you do not need to submit a claim form.** If you do nothing (for example, if you do not submit timely and valid Opt-Out Request), then you will remain in the Class, Class Counsel will represent you for the purposes of this Settlement at no direct cost and you will be deemed to have consented to release the Released Claims described above.

OPTION B. (Request to Exclude Yourself from or “Opt-Out” of the Settlement). If you do not want to be part of the proposed Settlement, then you must submit a timely and valid written Opt-Out Request to the Settlement Administrator by [RESPONSE DEADLINE DATE] with the following information: (1) your full name; (2) your dates of employment; (3) your contact information (e.g., current mailing address and telephone number); (4) **your statement in no exact words but, nevertheless, substantially in a form and substance indicating a desire to be excluded from the Settlement Agreement (e.g., “I wish to be excluded from the settlement.”; “I opt out from the settlement.”);** and (5) your or your legal representative’s signature. If you submit a timely and valid written Opt-Out Request, then you will have no further role in the Action, you will not be entitled to any benefit (except for being entitled to an Individual PAGA Payment, if you qualify) under the proposed Settlement and you may not be entitled or permitted to assert or raise an objection to the Settlement.

If you do not submit an Opt-Out Request in the manner described above in time, then the Court may determine that you have not opted out, you may be deemed a Participating Class Member and you may be bound by the release of Released Claims as described above and all other terms of the Settlement. Subject to review by Class Counsel, Defendant’s Counsel and the Court, the Settlement Administrator shall determine whether an Opt-Out Request is in writing and whether the writing lacks any of the foregoing five (5) enumerated items, which may render the request null and void.

OPTION C. (Object to the Settlement). If you wish to object to the settlement, then you may object to it by submitting a timely and written Objection to the Settlement Administrator by [RESPONSE DEADLINE DATE] with the following information: (1) your full name; (2) your dates of employment; (3) your current contact information (e.g., a current mailing address and telephone number); (4) your statement indicating the grounds for the objection; and (5) your or your legal representative’s signature. Class Counsel will not assist or represent you for the purposes of objecting to the Settlement. However, you may hire an attorney at your own expense to represent you in your objection. **If Court finally approves the Settlement despite any Objections, then you may and will likely be bound by the terms of the Settlement including the release of Released Claims as set forth above.**

If you do not submit an Objection in the manner described above in time, then the Court may determine that you have waived any objections and may not allow you to make any objection (whether by appeal or otherwise) to the proposed Settlement. Subject to review by Class Counsel, Defendant’s Counsel and the Court, the Settlement Administrator shall determine whether an objection is in writing and whether the writing lacks any of the foregoing five (5) enumerated items, which may render the objection null and void.

OPTION D. (Contest or Dispute Your Workweek or PAGA Pay Period Credits). If you disagree with the number of Workweek or PAGA Pay Period credits you have been assigned above, then you must submit a timely and valid written Workweek/PAGA Pay Period Dispute to the Settlement Administrator by [RESPONSE DEADLINE DATE] with the following information: (1) your full name; (2) your dates of employment; (3) your current contact information (e.g., a current mailing address and telephone number); (4) **a statement indicating the number of Workweeks and/or PAGA Pay Periods that you contend should be credited along with documentary evidence to support your contentions, if any;** and (5) your or your legal representative’s signature.

If you do not submit a Workweek/PAGA Pay Period Dispute in the manner described above in time, then the Court may determine that you have waived any challenge to the Workweek or PAGA Pay Period credits you have been assigned. Subject to review by Class Counsel, Defendant’s Counsel and the Court, the Settlement Administrator shall determine

whether a Workweek/PAGA Pay Period dispute is in writing and whether the writing lacks any of the foregoing five (5) enumerated items, which may render the Workweek/PAGA Pay Period dispute null and void.

What is the next step in the approval of the Settlement?

The Court will hold a Final Approval Hearing [FINAL APPROVAL HEARING DATE & TIME] in Department 23 of the Alameda County Superior Court, located at located at 225 Fallon Street, Oakland, California 94612 regarding the fairness, reasonableness and adequacy of the proposed Settlement. The Final Approval Hearing may be rescheduled without further notice to Class Members. **You are not required to attend the Final Approval Hearing to receive an Individual Settlement Payment.**

If the Court grants final approval of the Settlement, then notice of the Final Judgment may be provided by electronic posting on the Settlement Administrator's website (www.) within seven (7) calendar days after entry of the Final Judgment or in another manner other than direct mailing or notice to you.

How can I get additional information?

This Class Notice summarizes the Action and the basic terms of the Settlement. More details are in the Stipulation of Class and Representative Action Settlement, which, along with other records in the Action, may be available for inspection and/or copying during regular business hours at the Court Clerk's Office or by visiting the Court's Case Access website at: <https://eportal.alameda.courts.ca.gov/?q=node/387>. Please visit the Court's website for more information about accessing case related documents. You may also request a copy of the Settlement Agreement from Class Counsel, or contact Class Counsel with any questions, at the addresses and telephone numbers listed above.

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.

FURTHER WITHHOLDINGS NOTICE

The Settlement Administrator has identified you as a Class Member but has been unable to verify your social security number or tax identification number. If you do not complete the IRS Form W-9 enclosed with this Notice and return it to the Settlement Administrator, the Settlement Administrator may deduct additional withholdings from your Individual Settlement Payment. If you have any questions or concerns about completing and returning the enclosed IRS Form W-9, you may contact the Settlement Administrator to discuss other available options to verify your social security number or tax identification number.

[NEXT PAGE – IRS FORM W-9]

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EXHIBIT 2
(Draft Preliminary
Approval Order)

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Attorneys for Defendant E. TURMAN AND
 COMPANY, INC. dba TURMAN COMMERCIAL
 PAINTERS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA – RENE C. DAVIDSON COURTHOUSE

JOSE A. LAINEZ, individually, and on behalf of
 all others similarly situated,

Plaintiff,

v.

E. TURMAN AND COMPANY, INC., a
 California corporation dba TURMAN
 COMMERCIAL PAINTERS; and DOES 1
 through 10, inclusive,

Defendants.

Case No. RG21091805
*Assigned for all purposes to the Honorable Brad
 Seligman, Department 23*

**[PROPOSED] ORDER GRANTING
 PRELIMINARY APPROVAL OF
 STIPULATION OF CLASS AND
 REPRESENTATIVE ACTION SETTLEMENT**

PAGA Case No.	
LWDA-CM-825754-21:	March 12, 2021
Action Filed:	March 15, 2021
FAC Filed:	May 28, 2021
Trial Date:	None Set

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**[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF STIPULATION OF CLASS AND
 REPRESENTATIVE ACTION SETTLEMENT (ALAMEDA SUPERIOR COURT CASE No. RG21091805)**

[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL

Plaintiff's unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion") came before this Court on [PRELIMINARY APPROVAL HEARING DATE & TIME] in *Lainez v. E. Turman and Company, Inc. dba Turman Commercial Painters*, Alameda County Superior Court, Case No. RG21091805 (the "Action"). The Court, having reviewed the Motion and declarations filed in support thereof, including the Stipulation of Class and Representative Action Settlement ("Settlement Agreement") attached as **Exhibit A** to the Declaration of Kane Moon, the Notice of Class Action Settlement ("Class Notice"), which is attached as **Exhibit 1** to the Settlement Agreement and for GOOD CAUSE appearing, the Court hereby ORDERS:

1. The Court GRANTS preliminary approval of the settlement as set forth in the Settlement Agreement and finds the terms to be within the range of reasonableness of a settlement that ultimately could be granted final approval by the Court at the Final Approval Hearing. For purposes of the settlement, the Court finds that the proposed Class is ascertainable and that there is a sufficiently well-defined community of interest among the Class in questions of law and fact. Therefore, for settlement purposes only, the Court grants conditional certification of the following "Class" defined as follows:

All hourly non-exempt construction employees including, but not limited to, painters, laborers and drivers, currently and formerly employed by Defendant, in the State of California at any time from March 16, 2017 to July 31, 2022 ("Class Period")

The Court further notes that the PAGA release component of the proposed Settlement shall potentially bind the State of California with respect to the following persons:

All hourly non-exempt construction employees including, but not limited to, painters, laborers and drivers, currently and formerly employed by Defendant, in the State of California at any time from March 16, 2020 to July 31, 2022 ("PAGA Period")

2. For settlement purposes only, the Court preliminarily designates Plaintiff Jose Lainez as Class Representative.

3. For settlement purposes only, the Court preliminarily appoints Kane Moon and Roy K. Suh of Moon & Yang, APC, as Class Counsel.

4. The Court appoints Simpluris, Inc. as the Settlement Administrator.

1 5. A Final Approval Hearing on the question of whether the proposed Settlement should be
2 finally approved as fair, reasonable and adequate as to the members of the Class is scheduled in
3 Department 23 of this Court, located at 225 Fallon Street, Oakland, California 94612 at _____
4 a.m./p.m. _____.

5 6. At the Final Approval Hearing, the Court will consider: (a) whether the Settlement should
6 be approved as fair, reasonable and adequate for the Class; (b) whether an order granting final approval
7 of the settlement and a final judgement should be entered; and (c) whether Plaintiff's application for a
8 Class Representative Service Award and an award of attorney's fees and costs should be granted.

9 7. Counsel for the parties shall file memoranda, declarations, or other statements and
10 materials in support of their request for final approval and an award of attorney's fees and costs by no
11 later than _____.

12 8. The Court approves, as to form and content, the Class Notice attached as **Exhibit 1** to the
13 Settlement Agreement. The Court finds that the forms of notice to the Class regarding the pendency of the
14 Action and of the proposed Settlement and the methods of giving notice to members of the Class constitute
15 the best notice practicable under the circumstances and constitute valid, due and sufficient notice to all
16 members of the Class. The class notice administration process complies with the requirements of
17 California Code of Civil Procedure section 382, California Civil Code section 1781, California Rules of
18 Court, rules 3.766 and 3.769, the California and United States Constitutions and other applicable law.

19 9. The Court further approves the procedures for Class Members to opt out of or object to the
20 proposed Settlement, as set forth in the Settlement Agreement and the Class Notice.

21 10. The Court orders the Parties to carry out the class notice administration process for the
22 proposed Settlement according to the terms of the Settlement Agreement and authorizes the Parties to
23 utilize all reasonable procedures to effectuate those ends, which are materially consistent with this Order
24 and the Settlement Agreement.

25 11. Pending the Final Approval Hearing, all proceedings in the Action, other than those
26 necessary to carry out or enforce the terms and conditions of the Settlement Agreement and this Order,
27 are stayed. To facilitate class notice administration pending the Final Approval Hearing, the Court hereby
28 enjoins all Class Members from filing or prosecuting any claims, suits, or proceedings regarding claims

released under the proposed Settlement pending in this Department until such Class Members have submitted valid Opt-Out Requests with the Settlement Administrator.

12. The Court orders the following implementation schedule for further proceedings:

<u>Event</u>	<u>Timing</u>
Last day for Defendant to provide Class List to the Settlement Administrator.	_____ [date] (Seven (7) days after preliminary approval)
Last day for the Settlement Administrator to mail Class Notice to Class Members in bulk.	_____ [date] (14 days after receipt of Class List; 21 days after preliminary approval)
Last day for Class Members to postmark or submit Opt-Out Requests, Objections or Workweek/PAGA Pay Period Disputes to the Settlement ("Response Deadline").	_____ [date] (60 days after Class Notice Mailing Date; 81 days after preliminary approval)
Last day for Settlement Administrator to provide Parties with list of all Class Members who submitted valid Opt-Out Request, Objections or Workweek/PAGA Pay Period Disputes.	_____ [date] (10 days after Response Deadline; 91 days after preliminary approval)
Last day for Plaintiff to file a motion and supporting documents for final approval of class action settlement.	_____ [date] (16 court days before Final Approval Hearing)
Final Approval Hearing.	_____ [date] at _____ [time] (120 days after preliminary approval)

13. The Final Approval Hearing and related deadlines set forth above may, from time to time and without further notice to the Class (except those who have filed timely and valid objections), be continued or adjourned by Order of the Court

IT IS SO ORDERED.

DATED: _____

THE HONORABLE BRAD SELIGMAN
Judge of The Superior Court