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9 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES**

11 **ARYTON COSTA**, individually and on behalf
12 of all others similarly situated,

13 Plaintiff,

14 vs.

15 **UNIVERSITY OF ANTELOPE VALLEY**, a
16 California Corporation,

17 Defendant.
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Case No.: 21STCV18531

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S UNOPPOSED MOTION FOR
APPROVAL OF PAGA SETTLEMENT
PURSUANT TO LABOR CODE § 2699(l)**

Complaint Filed: May 14, 2021

1 WHEREAS, the Court has received and reviewed Plaintiff's Motion for Approval of Private
2 Attorney General Act (Labor Code §§ 2698 *et seq.*) Settlement Agreement, and has considered the terms
3 of the proposed settlement set forth therein;

4 IT IS HEREBY ORDERED AS FOLLOWS:

5 1. The Court has jurisdiction over the subject matter of this action pursuant to California
6 Labor Code § 2699(*l*), whereby a Superior Court is required to review and approve any penalties sought
7 as part of a proposed settlement pursuant to PAGA.

8 2. The Settlement between the Parties warrants approval pursuant to California Labor Code
9 § 2699 and is fair, adequate and reasonable.

10 3. Capitalized terms herein shall have the same meaning as in the Parties' Settlement
11 Agreement attached hereto as **Exhibit 1**.

12 4. The Court hereby approves the Settlement and finds that the payment of the Gross
13 Settlement Amount of \$150,000 in settlement of the claims for PAGA penalties, attorneys' fees, and costs
14 is fair, adequate, and reasonable. The Court finds that the PAGA settlement has been reached as a result
15 of informed and non-collusive arm's-length negotiations. The Court also finds that settlement now will
16 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
17 to continue to litigate the case. The Court has reviewed the penalties being provided as part of the PAGA
18 settlement and recognizes the significant value accorded to the Aggrieved Employees and the
19 Reimbursement Aggrieved Employees and to the State of California.

20 5. The Settlement is not an admission by Defendant or by any other party, nor is this Order a
21 finding of the validity of any allegations or of wrongdoing by Defendant or any other party. Neither this
22 Order, the Settlement, nor any document referred to herein, nor any action taken to carry out the
23 Settlement, may be construed as, or may be used as, an admission of any fault, wrongdoing, omission,
24 concession, or liability whatsoever by or against Defendant.

25 6. The Parties are directed to consummate the Settlement in accordance with its terms.

26 7. The Court approves the appointment of Simpluris, Inc. as Administrator in this matter and
27 settlement administration costs not to exceed \$5,000 to be paid from the Gross Settlement Amount.

28 8. Defendant shall, within 10 business days after the date of the Order approving the
Settlement, provide the Aggrieved Employee and Reimbursement Aggrieved Employee List to the
Settlement Administrator and fund the GSA.

9. The Settlement Administrator is directed to, within 15 calendar days after the date of the
Order approving the Settlement, distribute to each Aggrieved Employee and to each Reimbursement

1 Aggrieved Employee his or her Individual Settlement Payment by mailing via U.S. First-Class mail a
2 check for the allocated Individual Settlement Payment amount, along with the Notice of PAGA
3 Settlement, and any necessary tax reporting forms, to their last known address.

4 10. The deadline to cash settlement checks is 90 days after the mailing date. Any uncashed
5 Individual Settlement Payment checks will be reissued, maintained in the name of the aggrieved
6 employee, and deposited by the Settlement Administrator in the California State Controller's Unclaimed
7 Property Fund.

8 11. The Court approves payment of \$9,593.19 in litigation costs to Plaintiff's Counsel,
9 HammondLaw, P.C., to be paid from the Gross Settlement Amount.

10 12. The Court approves payment of \$49,500 in attorneys' fees to Plaintiff's Counsel,
11 HammondLaw, P.C., to be paid from the Gross Settlement Amount. The Court finds that Plaintiff's
12 Counsel's hourly rates are reasonable in the context of complex group litigation.

13 13. The Court approves payment of \$5,000 as a Service Award to the Plaintiff, as set forth in
14 the Settlement Agreement.

15 14. The Court orders, adjudges, and decrees that, in consideration of the Gross Settlement
16 Amount and upon entry of the Order approving the Settlement, Plaintiff, the Aggrieved Employees, and
17 the State of California shall fully, finally, and forever release, settle, relinquish and discharge the
18 Defendant from any and all claims asserted in the Action under PAGA, or that could have been asserted
19 in the Action under PAGA based on the facts alleged, including but not limited to any and all claims for
20 PAGA penalties for violations of the California Labor Code governing: failure to pay minimum wages,
21 failure to pay overtime wages, failure to provide meal periods or compensate an additional hour of pay for
22 missed or improper meal periods, failure to permit rest breaks or compensate an additional hour of pay for
23 missed or improper rest periods, failure to provide accurate itemized wage statements, failure to pay all
24 wages due upon separation of employment, failure to keep accurate and complete time and payroll records
25 for employees, failure to timely pay wages during employment, failure to pay rest periods at the proper
26 rate, failure to comply with Labor Code Section 226.2.

27 15. The Court orders, adjudges, and decrees that, in consideration of the Gross Settlement
28 Amount and upon entry of the Order approving the Settlement, the Reimbursement Aggrieved Employees,
shall fully, finally, and forever release, settle, relinquish and discharge the Defendant from any and all
claims asserted in the Action under PAGA, or that could have been asserted in the Action under PAGA
based on the facts alleged, including but not limited to any and all claims for PAGA penalties for
Defendant's failure to reimburse necessary business expenses.

1 IT IS SO ORDERED. Dated this ____ day of _____, 2022.

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3 BY THE COURT:

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6 Hon. Yvette M. Palazuelos
7 JUDGE OF THE SUPERIOR COURT
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EXHIBIT 1

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement”) of claims brought under the Private Attorneys General Act, Labor Code § 2698 *et seq.* (“PAGA”), is made and entered into between Plaintiff Aryton Costa, acting in his capacity as a representative of the State of California, on behalf of other aggrieved employees, and Defendant University of Antelope Valley.

I. DEFINITIONS

The following terms, when used in this Settlement, will have the following meanings:

1. “Action” refers to the following lawsuit: *Aryton Costa v. University of Antelope Valley*, Los Angeles County Superior Court, Case No. 21STCV18531.

2. “Plaintiff” means Aryton Costa.

3. “Defendant” means University of Antelope Valley.

4. “Aggrieved Employees” consist of all part-time instructors employed by Defendant in California from April 6, 2020 to the date the Court grants approval of the Settlement. There are approximately 55 Aggrieved Employees.

5. “Reimbursement Aggrieved Employees” consist of all individuals other than Aggrieved Employees who were employed in California by Defendant and who were required by Defendant to work from home remotely as a result of the COVID-19 pandemic and incurred necessary business expenses from April 6, 2020 until August 31, 2021. There are approximately 54 Reimbursement Aggrieved Employees.

6. “Court” means the Superior Court of California for the County of Los Angeles.

7. “Effective Date” means the date upon which the Court signs an Order finally approving the Settlement.

8. “Individual Settlement Payment” means the amount to be paid to each Aggrieved Employee based on the formula described herein.

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

10. “Gross Settlement Amount” is the non-reversionary sum of \$150,000.00, which represents the total amount payable under this Settlement by Defendant, including, without limitation, payments to all Aggrieved Employees and all Reimbursement Aggrieved Employees, payment to the LWDA, payment of Plaintiff’s attorneys’ fees and costs, payment of Plaintiff’s service award, and payment to the Settlement Administrator for administration costs.

11. “Net Settlement Amount” is the amount remaining to distribute to the LWDA, Aggrieved Employees, and Reimbursement Aggrieved Employees after the following amounts (subject to Court approval) are subtracted from the Gross Settlement Amount: (a) Plaintiff’s attorneys’ fees up to thirty-five percent of the Gross Settlement Amount, currently estimated at

\$52,500.00; (b) Plaintiff's litigation costs up to \$25,000.00; (c) Plaintiff's representative service award of \$5,000.00; and (d) reasonable third-party administration costs up to \$5,000.00.

12. "PAGA" means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

13. "PAGA Period" means the time period between April 6, 2020 and the date the Court grants approval of the Settlement.

14. "Reimbursement PAGA Period" means the time period between April 6, 2020 and August 31, 2021.

15. "PAGA Released Claims" means any and all claims asserted in the Action under PAGA, or that could have been asserted in the Action under PAGA based on the facts alleged, including but not limited to any and all claims for PAGA penalties for violations of the California Labor Code governing: failure to pay minimum wages, failure to pay overtime wages, failure to provide meal periods or compensate an additional hour of pay for missed or improper meal periods, failure to permit rest breaks or compensate an additional hour of pay for missed or improper rest periods, failure to provide accurate itemized wage statements, failure to pay all wages due upon separation of employment, failure to keep accurate and complete time and payroll records for employees, failure to timely pay wages during employment, failure to pay rest periods at the proper rate, failure to comply with Labor Code Section 226.2, and failure to reimburse necessary business expenses.

16. "Reimbursement PAGA Released Claims" means any and all claims asserted in the Action under PAGA, or that could have been asserted in the Action under PAGA based on the facts alleged, including but not limited to any and all claims for PAGA penalties for Defendant's failure to reimburse necessary business expenses.

17. "Parties" means Plaintiff and Defendant.

18. "Plaintiff's Counsel" means Julian Hammond, Polina Brandler, and Ari Cherniak of HammondLaw, P.C.

19. "Settlement Administrator" means Simpluris, Inc.

II. RECITALS

1. Plaintiff alleges that Defendant is liable for civil penalties under the PAGA as a result of its failure to: (i) pay all minimum wages; (ii) provide all meal periods or provide compensation in lieu thereof; (iii) authorize and permit all rest periods or provide compensation in lieu thereof; (iv) issue accurate, itemized wage statements; (v) pay all final wages due upon discharge; and (vi) reimburse business expenses. Defendant denies these allegations and, in entering into this Settlement, Defendant does not admit the sufficiency of any claims, allegations, assertions, or contentions made against it in the Action.

2. On November 10, 2021, the Parties participated in a full-day mediation with Marc Feder, Esq. and ultimately reached a tentative global settlement to fully resolve all PAGA claims

asserted in the Action as to Plaintiff, the Aggrieved Employees, and Reimbursement Aggrieved Employees.

3. On December 15, 2021, Plaintiff filed his First Amended Complaint deleting his class claims and adding a claim for PAGA penalties.

III. OPERATIVE TERMS OF SETTLEMENT

The Parties agree as follows:

1. **Non-Admission of Liability.** Defendant denies liability as to Plaintiff, Aggrieved Employees, and Reimbursement Aggrieved Employees upon any claim or cause of action. This Settlement does not constitute, and is not intended to constitute, an admission by Defendant as to the merits, validity, or accuracy of any of the allegations or claims made against it in the Action.

Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the negotiations leading to this Settlement, is intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties themselves agree not to introduce, use, or admit this Settlement, directly or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this Settlement may be used in any proceeding before the Court that has as its purpose the interpretation, implementation, or enforcement of this Settlement or any orders or judgments of the Court entered in connection with the Settlement.

2. **Gross Settlement Amount.** Defendant will pay \$150,000.00 as the non-reversionary Gross Settlement Amount. The Gross Settlement Amount shall be funded on the following schedule:

- a. The first payment will be for Fifty Thousand Dollars and Zero Cents (\$50,000.00) and will be made thirty (30) days following approval of the settlement;
- b. The second payment will be for Fifty Thousand Dollars and Zero Cents (\$50,000.00) and will be made no later than June 30, 2022; and
- c. The final payment will be for Fifty Thousand Dollars and Zero Cents (\$50,000.00) and will be made no later than September 30, 2022.

3. **Aggrieved Employee Escalator Clause.** It was estimated for purposes of mediation that during the time period beginning April 6, 2020 through and including November 10, 2021, the Aggrieved Employees worked approximately 950 pay periods ("Eligible Pay Periods"). This number would be expected to increase proportionately to reflect the passage of time between November 10, 2021 and the date the Court enters an order approving the settlement.

This estimate serves as the basis for Plaintiff accepting the settlement. If the total number of pay periods as of November 10, 2021 actually exceeds 950 by more than ten percent (10%), the 75% of the Gross Settlement Amount allocated to Aggrieved Employees (i.e., \$112,500) will increase proportionately for every percent over the 10% grace.

4. **Reimbursement Aggrieved Employee Escalator Clause.** It was estimated for purposes of mediation that during the time period beginning April 6, 2020 through and including November 10, 2021, the Reimbursement Aggrieved Employees worked approximately 781 pay periods ("Reimbursement Eligible Pay Periods"). This number would be expected to increase proportionately to reflect the passage of time between November 10, 2021 and the date the Court enters an order approving the settlement. This estimate serves as the basis for Plaintiff accepting the settlement. If the total number of pay periods as of November 10, 2021 actually exceeds 781 by more than ten percent (10%), the 25% of the Gross Settlement Amount allocated to Reimbursement Aggrieved Employees (i.e., \$37,500) will increase proportionately for every percent over the 10% grace.

5. **Net Settlement Amount.** The Parties agree that the following amounts should be subtracted from the Gross Settlement Amount, subject to Court approval, resulting in a Net Settlement Amount to distribute to the LWDA, Aggrieved Employees and Reimbursement Aggrieved Employees:

- a. **Plaintiff's Attorneys' Fees and Costs.** Defendant will not oppose Plaintiff's request for attorneys' fees in the amount of up to thirty-five percent of the Gross Settlement Amount (\$52,500.00) and actual costs incurred in prosecuting this Action, up to \$25,000.00. In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report these payments on IRS Form 1099 issued to Plaintiff's Counsel.
- b. **Plaintiff's Service Award.** Defendant will not oppose Plaintiff's request for a service award totaling \$5,000.00 for his service to the State of California and the Aggrieved Employees and Reimbursement Aggrieved Employees and the risk Plaintiff undertook by attaching his names to this Action. In the event the Court approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report this payment on IRS Form 1099 issued to Plaintiff.
- c. **Administration Costs.** Defendant will not oppose the Settlement Administrator's costs in the amount up to \$5,000.00 for administering the Settlement. In the event the Court approves a payment of less than this amount, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report this payment on IRS Form 1099 issued to the Settlement Administrator.

6. **Allocation of Net Settlement Amount.** The Net Settlement Amount will be distributed 75% to the LWDA and 25% to the Aggrieved Employees and Reimbursement Aggrieved Employees, pursuant to Labor Code § 2699(i). The 25% portion to be paid to the Aggrieved Employees and Reimbursement Aggrieved Employees will be paid to all Aggrieved Employees and Reimbursement Aggrieved Employees as follows: 75% of that portion will be

allocated to the Aggrieved Employees and paid to them based on the number of pay periods worked by each Aggrieved Employee during the PAGA Period in proportion to the pay periods worked by all Aggrieved Employees during the PAGA Period. 25% of that portion will be allocated to the Reimbursement Aggrieved Employees and paid to them based on the number of pay periods worked by each Reimbursement Aggrieved Employee during the Reimbursement PAGA Period in proportion to the pay periods worked by all Reimbursement Aggrieved Employees during the Reimbursement PAGA Period.

7. **PAGA Released Claims.** In consideration for the payments awarded pursuant to the terms of this Settlement, Plaintiff, in his capacity as a private attorney general and “aggrieved employee” acting on behalf of himself, the State of California, and the Aggrieved Employees, agrees that upon entry of an Order approving the Settlement, Plaintiff and the Aggrieved Employees, shall release Defendant from any and all PAGA Released Claims that arose during the PAGA Period. Upon entry of the Order approving the Settlement and judgment entered thereon, Plaintiff, and the Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against Defendant.

8. **Reimbursement PAGA Released Claims.** In consideration for the payments awarded pursuant to the terms of this Settlement, Plaintiff, in his capacity as a private attorney general and “aggrieved employee” acting on behalf of himself, the State of California, and Reimbursement Aggrieved Employees agrees that upon entry of an Order approving the Settlement, Plaintiff and Reimbursement Aggrieved Employees shall release Defendant from any and all Reimbursement PAGA Released Claims that arose during the Reimbursement PAGA Period. Upon entry of the Order approving the Settlement and judgment entered thereon, Plaintiff and Reimbursement Aggrieved Employees will be forever barred from pursuing any and all of the Reimbursement PAGA Released Claims that arose during the Reimbursement PAGA Period against Defendant.

9. **Covenants and Representations by Plaintiff.** Plaintiff represents and warrants that he has not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement. Plaintiff acknowledges that he has read this Settlement, that he fully understands his rights, privileges and duties under the Settlement, and enters into this Settlement freely and voluntarily. Plaintiff further acknowledges that he had the opportunity to consult with his attorneys to explain the terms of this Settlement and the consequences of signing this Settlement.

10. **Judgment.** As part of the Motion to approve the Settlement, Plaintiff will submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement and which retains jurisdiction of the Court over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement. This Settlement is expressly conditioned upon the Court entering an approval order as set forth herein. The order will not release or bar any claims other than the PAGA Released Claims and Reimbursement PAGA Released Claims as to Plaintiff, the Aggrieved Employees, and Reimbursement Aggrieved Employees. The Parties agree to reasonably cooperate in preparing any other filings required by the Court for the approval of this Settlement.

11. **Publicity.** Plaintiff and his counsel agree that they have not and will not publish the Actions or the Settlement until Plaintiff has filed his motion for approval of the Settlement.

Until then, Plaintiff will state that “the case was resolved and it was resolved confidentially” in response to any inquiries. Until Plaintiff has filed his motion for approval of the Settlement, Plaintiff’s counsel shall not report the Action or the Settlement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff, the Aggrieved Employees, or Reimbursement Aggrieved Employees or the Settlement on their websites, and shall not contact any reporters or media regarding the Settlement. Despite this provision, Plaintiff’s Counsel can discuss the Settlement with the court for purposes of approval and with Plaintiff. Nothing herein will restrict Plaintiff’s Counsel from including publicly available information regarding this settlement in future judicial submissions regarding Plaintiff’s Counsel’s qualifications and experience.

12. **Neutral Reference:** Defendant agrees that all inquiries about Plaintiff shall be referred to Human Resources, who will confirm the Plaintiff’s dates of employment and position held. No other information concerning Plaintiff’s work history will be provided by Human Resources without authorization from Plaintiff.

IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties agree to use Simpluris to handle the administration of this Settlement.

2. **Provision of Information for Aggrieved Employees and Reimbursement Aggrieved Employees.** Within ten (10) business days after the Effective Date, Defendant will provide the Settlement Administrator with information for the Aggrieved Employees, and Reimbursement Aggrieved Employees. Defendant will, in good faith, compile from its records a list of the Aggrieved Employees, and Reimbursement Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and will include each employee’s full name, last known mailing address, last known telephone number, pay period information, and Social Security number. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access will be limited to those with a need to use the list as part of the administration of the Settlement.

Within ten (10) business days of receiving the Aggrieved Employees’ and Reimbursement Aggrieved Employees’ information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the Individual Settlement Payments to each Aggrieved Employee and Reimbursement Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator will also determine whether the Escalator Clause in Paragraphs III.(3) has been triggered. The Settlement Administrator will obtain approval from all counsel for the Parties of the calculations before mailing Individual Settlement Payments.

3. **Explanatory Letter and Individual Settlement Payments.** Within five (5) business days of receiving approval from all counsel for the Parties, pursuant to Paragraph IV.2, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees’ and Reimbursement Aggrieved Employees’ addresses.

Within ten (10) business days of receiving the third and final payment from the Defendant, pursuant to Paragraph III.2, the Settlement Administrator will mail copies of the explanatory

letters, which have been mutually approved by the Parties and are attached hereto as **Exhibit A** and **Exhibit B**, along with the Individual Settlement Payments to all Aggrieved Employees and Reimbursement Aggrieved Employees via First-Class U.S. Mail.

Checks will remain negotiable for ninety (90) days from the date they are mailed by the Settlement Administrator. Any check that is not negotiated within ninety (90) days of mailing to an Aggrieved Employee or Reimbursement Aggrieved Employee will be transferred to the California State Controller's Unclaimed Property Fund.

4. **Undeliverable Letters.** The Settlement Administrator will exercise its best judgment to determine the current mailing address for each Aggrieved Employees and Reimbursement Aggrieved Employees. The address identified by the Settlement Administrator as the current mailing address will be presumed to be the best mailing address for each Aggrieved Employee and Reimbursement Aggrieved Employee. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a Skip-Trace or other search using the name, address or Social Security number of the Aggrieved Employees and Reimbursement Aggrieved Employees involved, and will perform a single re-mailing.

Defendant fully discharges its obligations to those Aggrieved Employees and Reimbursement Aggrieved Employees to whom they will pay an Individual Settlement Payment through the Settlement Administrator's initial mailing of a check, regardless of whether such checks are actually received and/or negotiated by the Aggrieved Employees and Reimbursement Aggrieved Employees.

Plaintiff and his counsel, as well as Defendant and its counsel shall not bear any responsibility for the Settlement Administrator's errors or omissions in the calculation or distribution of the settlement payments or the Settlement Administrator's development of the list of recipients of settlement payments.

5. **Payment of Remainder.** Within ten (10) business days of receiving the third payment from Defendant, pursuant to Paragraph III.2, the Settlement Administrator will distribute the following payments: (1) the 75% share of the Net Settlement Fund to the LWDA; (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel; (3) Court-approved service award to Plaintiff; and (4) Court-approved administration costs to the Settlement Administrator.

6. **Accounting.** The Settlement Administrator will provide an accounting declaration under oath to the Parties of the amounts paid from the Settlement as soon as practicable after the check cashing deadline described in Paragraph IV.3.

7. **Tax Consequences.** Individual Settlement Payments made under this Settlement will be attributed 100% as penalties and interest and paid via IRS Form 1099 issued to each Aggrieved Employee and Reimbursement Aggrieved Employee. Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement.

V. **CIRCULAR 230 DISCLAIMER.**

EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

VI. **MISCELLANEOUS PROVISIONS**

1. **Successors.** This Settlement will be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors.

2. **Governing Law.** This Settlement will be construed under and governed by the laws of the State of California, without regard to choice of law principles. All questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement will be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it will be brought in the State of California, County of San Bernardino.

3. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement has been made to them and acknowledge and represent that this Settlement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the Action. This Settlement cannot be amended or modified except by a writing signed by the Parties hereto.

4. **Nullification of Settlement.** In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason,

then this Settlement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions.

5. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction per California Code of Civil Procedure § 664.6 solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement; (ii) settlement administration matters; and (iii) such post-judgment matters as may be appropriate under court rules or as set forth in this Settlement.

6. **Amendment or Modification.** This Settlement may be amended or modified only by a written instrument, signed by the Parties or their successors-in-interest or counsel for the Parties.

7. **Authorization to Enter into Settlement.** Counsel for the Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If they are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

8. **Execution and Counterparts.** This Settlement is subject only to the execution of the Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

9. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Settlement is a fair, adequate and reasonable settlement of the Action, and have arrived at this Settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

10. **Invalidity of Any Provision.** Before declaring any provision of this Settlement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Settlement valid and enforceable.

11. **Severability.** If any term or provision of this Settlement is held to be invalid or unenforceable, the remaining portions of this Settlement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Settlement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

12. **Waiver**. No waiver of any condition or covenant contained in this Settlement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

13. **Enforcement Action**. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

14. **Mutual Preparation**. The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. Accordingly, this Settlement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement.

15. **Representation by Counsel**. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement, and this Settlement has been executed with the consent and advice of counsel and reviewed in full.

16. **Cooperation and Execution of Necessary Documents**. The Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement. The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to seek the Court's approval of this Settlement are timely filed.

17. **Binding Agreement**. The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS THEREOF, the Parties to this Settlement each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

ARYTON COSTA

Dated: 1/26/2022



Aryton Costa, Plaintiff

UNIVERSITY OF ANTELOPE VALLEY

Dated: 2/18/22

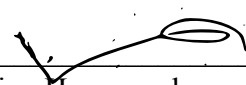


By: sandra johnson
Title: Co Founder/CFO

APPROVED AS TO FORM AND CONTENT:

Dated: 1/27/22

HAMMONDLAW, APC

By: 

Julian Hammond
Attorneys for Plaintiff, Aryton Costa

Dated: February 18, 2022

FISHER & PHILLIPS LLP

By: 

Grace Horoupian
Lisa Peterson
Attorneys for Defendant, University of Antelope Valley

EXHIBIT A

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: Payment from *Costa v. University of Antelope Valley*

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit entitled *Costa v. University of Antelope Valley*, Los Angeles County Superior Court Case No. 21STCV18531.

That case was filed against the University of Antelope Valley pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (called “PAGA”). The claim was brought on behalf of the State of California and all similarly situated part-time instructors employed by the University of Antelope Valley between April 6, 2020 and [APPROVAL DATE] (“PAGA Period”) for its alleged failure to pay minimum wages, failure to pay overtime wages, failure to provide meal periods or compensate an additional hour of pay for missed or improper meal periods, failure to permit rest breaks or compensate an additional hour of pay for missed or improper rest periods, failure to provide accurate itemized wage statements, failure to pay all wages due upon separation of employment, failure to keep accurate and complete time and payroll records for employees, failure to timely pay wages during employment, failure to pay rest periods at the proper rate, failure to comply with Labor Code Section 226.2, and failure to reimburse necessary business expenses. You have been identified as one of the employees on whose behalf the case was brought.

The Plaintiff in the case claimed that the University of Antelope Valley owed penalties under PAGA for the California Labor Code violations listed above. University of Antelope Valley denies that it did anything wrong or that it owes any penalties. The Parties agreed to resolve the case, and as part of that settlement, University of Antelope Valley agreed to pay a certain amount of money categorized as PAGA penalties. The settlement of this action does not constitute an admission by University of Antelope Valley of any of the matters alleged in the case or an admission of liability. Under the PAGA statute, the penalties get divided between the State and the employees. The enclosed check represents your portion of the penalties allocated to the employees and is based on the number of pay periods that you worked during the PAGA Period.

You will receive an IRS Form 1099 to you in the amount of your Settlement Share. You will be responsible for the tax consequences of your Settlement Share and should seek tax advice as to any amounts paid to you as your Settlement Share from your own tax advisor.

You will be bound by the terms of the Settlement whether or not you accept the enclosed check. Checks will remain negotiable for ninety (90) days from the date they are mailed after which they will be voided and transferred to the California State Controller’s Unclaimed Property Fund.

If you have any questions, you can contact the settlement administrator, whose contact information is at the top of this letter; or Class Counsel at:

Julian Hammond, jhammond@hammondlawpc.com
Ari Cherniak, acherniak@hammondlawpc.com
HAMMONDLAW, P.C.
11780 W. Sample Rd., Suite 103
Coral Springs, FL 33065
Telephone: (310) 601-6766

Very Truly Yours,

[administrator]

EXHIBIT B

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: Payment from *Costa v. University of Antelope Valley*

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit entitled *Costa v. University of Antelope Valley*, Los Angeles County Superior Court Case No. 21STCV18531.

That case was filed against the University of Antelope Valley pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (called "PAGA"). The claim was brought on behalf of the State of California and all similarly situated employees employed by the University of Antelope Valley from April 6, 2020 until August 31, 2021 who were required to work from home remotely as a result of the COVID-19 pandemic and incurred necessary business expenses which University of Antelope Valley allegedly failed to reimburse. You have been identified as one of the employees on whose behalf the case was brought.

The Plaintiff in the case claimed that the University of Antelope Valley owed penalties under PAGA for the California Labor Code violation stated above. University of Antelope Valley denies that it did anything wrong or that it owes any penalties. The Parties agreed to resolve the case, and as part of that settlement, University of Antelope Valley agreed to pay a certain amount of money categorized as PAGA penalties. The settlement of this action does not constitute an admission by University of Antelope Valley of any of the matters alleged in the case or an admission of liability. Under the PAGA statute, the penalties get divided between the State and the employees. The enclosed check represents your portion of the penalties allocated to the employees and is based on the number of pay periods that you worked during the PAGA Period.

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Ari Cherniak, acherniak@hammondlawpc.com
HAMMONDLAW, P.C.
11780 W. Sample Rd., Suite 103
Coral Springs, FL 33065
Telephone: (310) 601-6766

Very Truly Yours,

[administrator]