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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES- SPRING STREET COURTHOUSE

GUILLERMO CRUZ, an individual, on behalf
of himself and all others similarly situated and
aggrieved,

Plaintiff,

v.

ALMA FAMILY SERVICES, a California
Corporation; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 21STCV18156

[Assigned to the Hon. Elihu M. Berle, in
Dept. 6]

CLASS ACTION

**JOINT STIPULATION RE: CLASS
ACTION AND REPRESENTATIVE
ACTION SETTLEMENT**

Action Filed: May 14, 2021

Trial Date: None Set

This Joint Stipulation re: Class Action and Representative Action Settlement
("Settlement" or "Agreement" or "Settlement Agreement") is made by and between plaintiff
Guillermo Cruz ("Plaintiff") individually and on behalf of the Settlement Class, on the one hand;
and defendant Alma Family Services ("Alma" or "Defendant"), on the other hand, in the lawsuit
entitled *Guillermo Cruz v. Alma Family Services*, filed in Los Angeles County Superior Court,

Case No. 21STCV18156 (the “Action”). Plaintiff and Defendant shall be, at times, collectively referred to as the “Parties”. This Agreement is intended by the Parties to fully, finally, and forever resolve the claims as set forth herein, based upon and subject to the terms and conditions of this Agreement.

1. DEFINITIONS

A. “Action” means *Guillermo Cruz v. Alma Family Services, Inc.* filed in Los Angeles County Superior Court, Case No. 21STCV18156.

B. “Aggrieved Employees” means Class Members working for Defendant during the PAGA Period in California as non-exempt, hourly-paid employees.

C. “Class Counsel” or “Plaintiff’s Counsel” means: David D. Bibiyan and Jeffrey D. Klein of Bibiyan Law Group, P.C.

D. “Class Period” means the period from May 14, 2017 through March 19, 2022.

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

F. “Final Approval Date” means the later of: (1) the date the Court signs an Order granting final approval of this Settlement (“Final Approval”) and Judgment; (2) if there is an objector, 60 days from the date the Final Approval and Judgment; or (3) to the extent any appeals have been filed, the date on which they have been resolved or exhausted.

G. “Defendant” means Alma Family Services.

H. “Employer Taxes” means employer-funded taxes and contributions imposed on the wage portions of the Individual Settlement Payments under the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and any similar state and federal taxes and contributions required of employers, such as for unemployment insurance.

I. “General Release” means the broader release of claims by Plaintiff, which is in addition to Plaintiff’s limited release of claims as a Participating Class Member.

J. “Gross Settlement Amount” means a non-reversionary fund in the sum of Seven Hundred Fifty Thousand Dollars and Zero Cents (\$750,000.00),¹ which shall be paid by

¹ As the same may be increased in accordance with Paragraph 17, below.

1 Defendant, from which all payments for the Individual Settlement Payments to Participating
2 Class Members, the Court-approved amounts for attorneys' fees and reimbursement of litigation
3 costs and expenses to Class Counsel, Settlement Administration Costs, the Service Award, the
4 PAGA Payment, and the LWDA Payment shall be paid. It expressly excludes Employer Taxes,
5 which shall be paid by Defendant separate, apart, and in addition to the Gross Settlement Amount.

6 **K. "Individual PAGA Payment"** means a payment made to an Aggrieved
7 Employee for his or her share of the PAGA Payment, which may be in addition to his or her
8 Individual Settlement Payment if he or she is also a Participating Class Member.

9 **L. "Individual Settlement Payment"** means a payment to a Participating Class
10 Member of his or her net share of the Net Settlement Amount.

11 **M. "Individual Settlement Share"** means the gross amount of the Net Settlement
12 Amount that a Settlement Class Member is eligible to receive based on the number of Workweeks
13 that he or she worked as a Settlement Class Member during the Class Period if he or she does not
14 submit a timely and valid Request for Exclusion.

15 **N. "LWDA Payment"** means the payment to the State of California Labor and
16 Workforce Development Agency ("LWDA") for its seventy-five percent (75%) share of the total
17 amount allocated toward penalties under the PAGA all of which is to be paid from the Gross
18 Settlement Amount. The Parties have agreed that Twenty-Five Thousand Dollars and Zero Cents
19 (\$25,000.00) shall be allocated toward PAGA penalties, of which Eighteen Thousand Seven
20 Hundred Fifty Dollars and Zero Cents (\$18,750) will be paid to the LWDA (*i.e.*, the LWDA
21 Payment) and Six Thousand Two Hundred Fifty Dollars and Zero Cents (\$6,250.00) will be paid
22 to Aggrieved Employees on a *pro rata* basis based on the Workweeks worked in the PAGA
23 Period (*i.e.*, the PAGA Payment).

24 **O. "Net Settlement Amount"** means the portion of the Gross Settlement Amount
25 that is available for distribution to the Participating Class Members after deductions for the Court-
26 approved allocations for Settlement Administration Costs, a Service Award to Plaintiff, an award
27 of attorneys' fees, reimbursement of litigation costs and expenses to Class Counsel, the LWDA
28 Payment, and the PAGA Payment.

1 **P. “Operative Complaint” or “Complaint”** means the First Amended Complaint
2 that was filed with the Court on July 27, 2021.

3 **Q. “PAGA Payment** is the is the 25% portion of the Twenty-Five Thousand Dollars
4 and Zero Cents (\$25,000.00) that is allocated toward PAGA penalties (Six Thousand Two
5 Hundred Fifty Dollars and Zero Cents (\$6,250.00)) that will be paid to Aggrieved Employees on
6 a *pro rata* basis based on the Workweeks worked in the PAGA Period, which would be in
7 addition to their Individual Settlement Payment if they are Participating Class Members, as well.

8 **R. “PAGA Period”** means the period from May 12, 2020 through March 19, 2022.

9 **S. “Participating Class Members”** means all Settlement Class Members who do
10 not submit a timely and valid Request for Exclusion.

11 **T. “Participating Individual Settlement Share”** means the gross amount of the Net
12 Settlement Amount that a Participating Class Member is eligible to receive based on the number
13 of Workweeks that he or she worked as a Settlement Class Member during the Class Period once
14 all opt-outs have been factored in, excluding any Individual PAGA Payment to which he or she
15 may be entitled if he or she is also an Aggrieved Employee.

16 **U. “Plaintiff”, “Named Plaintiff” or “Class Representative”** shall refer to
17 Plaintiff Guillermo Cruz.

18 **V. “Preliminary Approval Date”** means the date on which the Court enters an
19 Order granting preliminary approval of the Settlement.

20 **W. “Released Parties”** shall mean Defendant and each of its past, present, and future
21 respective subsidiaries, dba’s, affiliates, parents, insurers and reinsurers, and company-sponsored
22 employee benefit plans of any nature, and each of their successors and predecessors in interest,
23 divisions, joint venturers and assigns, including all of their past and present owners, officers,
24 directors, shareholders, partners, managers, members, employees, agents, principals, heirs,
25 representatives, accountants, auditors, consultants, attorneys, administrators, fiduciaries,
26 trustees, and agents.

27 **X. “Response Deadline”** means the deadline for Settlement Class Members to mail
28 any Requests for Exclusion, Objections, or Workweek Disputes to the Settlement Administrator,

1 which is forty-five (45) calendar days from the date that the Class Notice is first mailed in English
2 and Spanish by the Settlement Administrator, unless a Class Member's notice is re-mailed. In
3 such an instance, the Response Deadline shall be fifteen (15) calendar days from the re-mailing,
4 or forty-five (45) calendar days from the date of the initial mailing, whichever is later, in which
5 to postmark a Request for Exclusion, Workweek Dispute or Objection. The date of the postmark
6 shall be the exclusive means for determining whether a Request for Exclusion, Objection, or
7 Workweek Dispute was submitted by the Response Deadline.

8 Y. "Request for Exclusion" means a written request to be excluded from the
9 Settlement Class pursuant to Paragraph 9(C) below.

10 Z. "Service Award" means monetary amounts to be paid to Plaintiff of up to Seven
11 Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00), which subject to Court approval,
12 will be paid out of the Gross Settlement Amount.

13 AA. "Settlement Administration Costs" means all costs incurred by the Settlement
14 Administrator in administration of the Settlement, including, but not limited to, translating the
15 Class Notice to Spanish, the distribution of the Class Notice to the Settlement Class in English
16 and Spanish, calculating Individual Settlement Shares, Individual Settlement Payments,
17 Individual PAGA Payments, and Participating Individual Settlement Shares, as well as associated
18 taxes and withholdings, providing declarations, generating Individual Settlement Payment
19 checks, Individual PAGA Payment checks, and related tax reporting forms, doing administrative
20 work related to unclaimed checks, transmitting payment to Class Counsel for the Court-approved
21 amounts for attorneys' fees and reimbursement of litigation costs and expenses, to Plaintiff for
22 his Service Award, and to the LWDA for the LWDA Payment, providing weekly reports of opt-
23 outs, objections and related information, and any other actions of the Settlement Administrator
24 as set forth in this Agreement, all pursuant to the terms of this Agreement. The Settlement
25 Administration Costs are estimated not to exceed \$10,990.00. If the actual amount of the
26 Settlement Administration Costs is less than \$10,990.00, the difference between \$10,990.00 and
27 the actual Settlement Administration Costs shall be a part of the Net Settlement Amount. If the
28 Settlement Administration Costs exceed \$10,990.00 then such excess will be paid solely from

1 the Gross Settlement Amount and Defendant will not be responsible for paying any additional
2 funds in order to pay these additional costs.

3 **BB. "Settlement Administrator"** means the Third-Party Administrator mutually
4 agreed upon by the Parties that will be responsible for the administration of the Settlement
5 including, without limitation, translating the Class Notice in Spanish, the distribution of the
6 Individual Settlement Payments to be made by Defendant from the Gross Settlement Amount
7 and related matters under this Agreement.

8 **CC. "Settlement Class" or "Settlement Class Members"** means all current and
9 former non-exempt, hourly-paid employees who worked in California for Defendant at any time
10 during the Class Period.

11 **DD. "Workweeks"** means the number of weeks that a Class Member was employed
12 by and worked for the Defendant in a non-exempt, hourly-paid position during the Class Period
13 in California, based on hire dates, re-hire dates, and termination dates.

14 **2. BACKGROUND**

15 **A.** On May 12, 2021, Plaintiff filed with the LWDA and served on Defendant a notice
16 under Labor Code section 2699.3 stating Plaintiff intended to serve as a proxy of the LWDA to
17 recover civil penalties for Aggrieved Employees for various Labor Code violations. ("PAGA
18 Notice").

19 **B.** On May 14, 2021, Plaintiff filed a putative wage-and-hour class action alleging
20 that, during the Class Period, Defendant, as it pertains to Class Members: (1) failed to pay
21 overtime wages; (2) failed to pay minimum wages; (3) failed to provide meal periods or
22 compensation in lieu thereof; (4) failed to provide rest periods or compensation in lieu thereof;
23 (5) failed to pay wages due upon separation from employment; (6) failed to provide accurate
24 itemized wage statements; (7) failed to reimburse employees for business expenses; (8) failed to
25 pay for vested vacation time; and (9) engaged in unfair competition.

26 **C.** On July 27, 2021, after sixty-five (65) days had passed without any Action by the
27 LWDA with respect to the alleged labor code violations, Plaintiff filed a First Amended
28 Complaint in the Action adding a cause of action seeking PAGA civil penalties under Labor

1 Code sections 210, 226.3, 558, 1174.5, 1197.1 and 2699, *et seq.*

2 **D.** Shortly thereafter, the Parties agreed to exchange informal discovery and attend
3 an early mediation, in which Plaintiff was provided with, among other things: (1) time and payroll
4 records for approximately 65 of 327 Class Members (*i.e.* 20% of the total class); (2) data points
5 for the Settlement Class, including average rates of pay, total number of hours and pay periods
6 worked during the Class Period, the number of separated Class Members, and the number of
7 Aggrieved Employees during the PAGA Period, as well as their number of hours and pay periods
8 worked; and (3) all of Defendant's employment policies.

9 **E.** On January 13, 2022, the Parties participated in a full-day mediation before Lynn
10 Frank, Esquire, a well-regarded mediator experienced in mediating complex labor and
11 employment matters. With the aid of the mediator's evaluation, the Parties reached the
12 Settlement to resolve the Action.

13 **F.** Class Counsel has conducted significant investigation of the law and facts relating
14 to the claims asserted in the Action and the PAGA Notice, and have concluded that that the
15 Settlement set forth herein is fair, reasonable, adequate, and in the best interests of the Settlement
16 Class, taking into account the sharply contested issues involved, the expense and time necessary
17 to litigate the Action through trial and any appeals, the risks and costs of further litigation of the
18 Action, the risk of an adverse outcome, the uncertainties of complex litigation, the information
19 learned through informal discovery regarding Plaintiff's allegations, and the substantial benefits
20 to be received by Settlement Class Members.

21 **G.** Defendant has concluded that, because of the substantial expense of defending
22 against the Action, the length of time necessary to resolve the issues presented herein, the
23 inconvenience involved, and the concomitant disruption to its business operations, it is in its best
24 interest to accept the terms of this Agreement. Defendant denies each of the allegations and
25 claims asserted against it in the Action and the PAGA Notice. However, Defendant nevertheless
26 desires to settle the Action for the purpose of avoiding the burden, expense and uncertainty of
27 continuing litigation and for the purpose of putting to rest the controversies engendered by the
28 Action.

1 **H.** This Agreement is intended to and does effectuate the full, final, and complete
2 resolution of all Class Released Claims of Plaintiff and Participating Class Members, and all
3 PAGA Released Claims of Plaintiff and, to the extent permitted by law, of the State of California
4 and Aggrieved Employees.

5 **3. JURISDICTION**

6 The Court has jurisdiction over the Parties and the subject matter of the Action. The
7 Action includes claims that, if proven, would authorize the Court to grant relief pursuant to the
8 applicable statutes. After the Court has granted Final Approval of the Settlement and entered
9 judgment, the Court shall retain jurisdiction over the Parties to enforce the terms of the judgment
10 pursuant to California Rule of Court, rule 3.769, subdivision (h).

11 **4. STIPULATION OF CLASS CERTIFICATION**

12 The Parties stipulate to the certification of the Settlement Class under this Agreement for
13 purposes of settlement only.

14 **5. MOTIONS FOR APPROVAL OF SETTLEMENT**

15 After full execution of this Agreement, Plaintiff will move for an order granting
16 preliminary approval of the Settlement, approving and directing the mailing of the proposed
17 Notice of Class Action Settlement ("Class Notice") attached hereto as **Exhibit "A"**, conditionally
18 certifying the Settlement Class for settlement purposes only, and approving the deadlines
19 proposed by the Parties for the submission of Requests for Exclusion, Workweek Disputes, and
20 Objections. If and when the Court preliminarily approves the Settlement, and after
21 administration of the Class Notice in a manner consistent with the Court's Preliminary Approval
22 Order, Plaintiff will move for an order finally approving the Settlement and seek entry of a
23 Judgment in line with this Settlement. The Parties may both respond to any Objections lodged
24 to final approval of the Settlement up to five (5) court days before the Final Approval Hearing.

25 **6. STATEMENT OF NO ADMISSION**

26 Defendant denies any wrongdoing of any sort and further denies any liability to Plaintiff
27 and the Settlement Class with respect to any claims or allegations asserted in the Action and the
28 PAGA Notice. This Agreement shall not be deemed an admission by Defendant of any claims

1 or allegations asserted in the Action or the PAGA Notice. Except as set forth elsewhere herein,
2 in the event that this Agreement is not approved by the Court, or any appellate court, is
3 terminated, or otherwise fails to be enforceable, Plaintiff will not be deemed to have waived,
4 limited or affected in any way any claims, rights or remedies, or defenses in the Action or the
5 PAGA Notice, and Defendant will not be deemed to have waived, limited, or affected in any way
6 any of its objections or defenses in the Action or the PAGA Notice. The Parties shall be restored
7 to their respective positions in the Action prior to the entry of this Settlement.

8 **7. RELEASE OF CLAIMS**

9 **A. Release by All Participating Class Members.**

10 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry
11 of Judgment, and payment by Defendant to the Settlement Administrator of the full Gross
12 Settlement Amount and Employers' Taxes necessary to effectuate the Settlement, Plaintiff and
13 all Participating Class Members release all claims against the Released Parties asserted in the
14 Operative Complaint filed in the Action, or any and all claims that may be asserted against the
15 Released Parties based on the factual allegations in the Operative Complaint, or any and all
16 claims that may be asserted against the Released Parties based on the factual allegations in the
17 Action, as follows: For the duration of the Class Period, the release includes, for Participating
18 Class Members: (a) all claims for failure to pay overtime wages; (b) all claims for failure to pay
19 minimum wages; (c) all claims for failure to provide compliant meal periods, or premium
20 compensation in lieu thereof; (d) all claims for failure to provide compliant rest periods, or
21 premium compensation in lieu thereof (e) all claims for the failure to timely pay wages upon
22 termination or resignation; (f) all claims for non-compliant wage statements; (g) all claims for
23 failure to reimburse employees for business expenses; (h) all claims for violation of Labor Code
24 section 227.3; and (i) all claims asserted through California Business & Professions Code section
25 17200, *et seq.* arising out of the Labor Code violations referenced in the Complaint (the "Class
26 Released Claims"). For Aggrieved Employees, and, to the extent permitted by law, the State of
27 California, the release includes for the duration of the PAGA Period, all claims asserted in the
28 PAGA Notice and alleged in the Operative Complaint, for PAGA civil penalties pursuant to

1 Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 in connection with alleged
2 violations of Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 221, 223, 226, 226.7, 227.3,
3 232, 232.5, 246, 432, 510, 512, 1102.5, 1182.12, 1174, 1194, 1194.2, 1197, 1197.5, 1198.5, 2802,
4 and 2810.5, applicable portions of Cal. Code Regs, title 8, section 110404(5)(A), and applicable
5 portions of the applicable Industrial Welfare Commission Wage Orders (the "PAGA Released
6 Claims"). The release expressly excludes all other claims, including other claims for vested
7 benefits, wrongful termination, unemployment insurance, disability, social security, workers'
8 compensation, and any other claims outside of the Class Released Claims of Participating Class
9 Members arising during the Class Period and the PAGA Released Claims of Aggrieved
10 Employees (and, to the extent permitted by law, the State of California) arising outside of the
11 PAGA Period. The Class Released Claims and PAGA Released Claims shall be referred to
12 herein as the "Released Claims".

13 **B. General Release.**

14 Effective only upon the entry of an Order granting Final Approval of the Settlement, entry
15 of Judgment, and payment by Defendant to the Settlement Administrator selected of the full
16 Gross Settlement Amount and Employers' Taxes necessary to effectuate the Settlement, in
17 addition to the Released Claims, Plaintiff makes the additional following General Release:
18 Plaintiff releases the Released Parties from all claims, demands, rights, liabilities and causes of
19 action of every nature and description whatsoever, known or unknown, asserted or that might
20 have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule,
21 law or regulation arising out of, relating to, or in connection with any act or omission of the
22 Released Parties through the date of full execution of this Agreement in connection with
23 Plaintiff's employment with Defendant or the termination thereof, except for any and all other
24 claims that may not be released as a matter of law through this Agreement. To the extent of the
25 General Release provided herein, Plaintiff stipulates and agrees that, upon entry of an Order
26 granting Final Approval of the Settlement, entry of Judgment, and payment by Defendant to the
27 Settlement Administrator selected of the full Gross Settlement Amount and Employers' Taxes
28 necessary to effectuate the Settlement, he shall have expressly waived and relinquished, to the

1 fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the
2 California Civil Code, or any other similar provision under federal or state law, which provides:

3 A general release does not extend to claims which the creditor
4 does not know or suspect to exist in his or her favor at the time of
5 executing the release, which if known by him or her must have
6 materially affected his or her settlement with the debtor or
7 released party.

8 **8. SETTLEMENT ADMINISTRATOR**

9 A. Plaintiff and Defendant, through their respective counsel, have selected ILYM
10 Group, Inc. to administer the Settlement, which includes but is not limited to translating the Class
11 Notice to Spanish, distributing and responding to inquiries about the Class Notice, determining
12 the validity of exclusions/opt-outs, calculating all amounts to be paid from the Gross Settlement
13 Amount, calculating the Employer Taxes, and administering payment of the Employer Taxes to
14 the appropriate taxing authorities. Charges and expenses of the Settlement Administrator,
15 currently estimated to be \$10,990.00 will be paid from the Gross Settlement Amount. If the
16 actual amount of the Settlement Administration Costs is less than \$10,990.00, the difference
17 between \$10,990.00 and the actual Settlement Administration Costs shall be a part of the Net
18 Settlement Amount. If the Settlement Administration Costs exceed \$10,990.00, then such excess
19 will be paid solely from the Gross Settlement Amount and Defendant will not be responsible for
20 paying any additional funds in order to pay these additional costs.

21 **9. NOTICE, WORKWEEK DISPUTE, OBJECTION, AND EXCLUSION**
22 **PROCESS**

23 **A. Notice to the Settlement Class Members**

24 (1) Within fourteen (14) calendar days after the Preliminary Approval Date,
25 Defendant's Counsel shall provide the Settlement Administrator with information with respect
26 to each Settlement Class Member, including his or her: (1) name; (2) last known address(es)
27 currently in Defendant's possession, custody, or control; (3) last known telephone number(s)
28 currently in Defendant's possession, custody, or control; (4) last known Social Security
Number(s) in Defendant's possession, custody, or control; and (5) the dates of employment (*i.e.*,
hire dates, and, if applicable, re-hire date(s) and/or separation date(s)) for each Settlement Class

1 Member ("Class List"), which shall be made available to Class Counsel upon request. The
2 Settlement Administrator shall perform an address search using the United States Postal Service
3 National Change of Address ("NCOA") database and update the addresses contained on the Class
4 List with the newly-found addresses, if any. Within seven (7) calendar days of receiving the
5 Class List from Defendant, the Settlement Administrator shall mail the Class Notice in English
6 and Spanish to the Settlement Class Members via first-class regular U.S. Mail using the most
7 current mailing address information available. The Settlement Administrator shall maintain the
8 Class List and digital copies of all the Settlement Administrator's records evidencing the giving
9 of notice to any Settlement Class Member, for at least four (4) years from the Final Approval
10 Date.

11 (2) The Class Notice will set forth:

- 12 (a) the Settlement Class Member's estimated Individual
13 Settlement Payment and Individual PAGA Payment,
14 and the basis for each;
- 15 (b) the information required by California Rule of Court,
16 rule 3.766, subdivision (d);
- 17 (c) the material terms of the Settlement;
- 18 (d) the proposed Settlement Administration Costs;
- 19 (e) the definition of the Settlement Class;
- 20 (f) a statement that the Court has preliminarily approved
21 the Settlement;
- 22 (g) how the Settlement Class Member can obtain
23 additional information, including contact information
24 for Class Counsel;
- 25 (h) information regarding opt-out and objection
26 procedures;
- 27 (i) the date and location of the Final Approval Hearing;
28 and

1 (j) that the Settlement Class Member must notify the
2 Settlement Administrator no later than the Response
3 Deadline if the Settlement Class Member disputes the
4 accuracy of the number of Workweeks as set forth on
5 his or her Class Notice ("Workweek Dispute"). If a
6 Settlement Class Member fails to timely dispute the
7 number of Workweeks attributed to him or her in
8 conformity with the instructions in the Class Notice,
9 then he or she shall be deemed to have waived any
10 objection to its accuracy and any claim to any
11 additional settlement payment based on different data.

12 (3) If a Class Notice from the initial notice mailing is returned as
13 undeliverable, the Settlement Administrator will attempt to obtain a current address for the
14 Settlement Class Member to whom the returned Class Notice had been mailed, within five (5)
15 calendar days of receipt of the returned Class Notice, by: (1) contacting the Settlement Class
16 Member by phone, if possible, and (2) undertaking skip tracing. If the Settlement Administrator
17 is successful in obtaining a new address, it will promptly re-mail the Class Notice to the
18 Settlement Class Member. Further, any Class Notices that are returned to the Settlement
19 Administrator with a forwarding address before the Response Deadline shall be promptly re-
20 mailed to the forwarding address affixed thereto.

21 (4) No later than seven (7) calendar days from the Response Deadline, the
22 Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the
23 completion of the notice process, including the number of attempts to obtain valid mailing
24 addresses for and re-sending of any returned Class Notices, as well as the identities, number of,
25 and copies of all Requests for Exclusion and Objections received by the Settlement
26 Administrator.

27 **B. Objections.**

28 Only Participating Class Members may object to the Settlement. In order for any

1 Settlement Class Member to object to this Settlement in writing, or any term of it, he or she must
2 do so by mailing a written objection to the Settlement Administrator at the address or phone
3 number provided on the Class Notice no later than the Response Deadline. The Settlement
4 Administrator shall email a copy of the Objection forthwith to Class Counsel and Defendant's
5 counsel and attach copies of all Objections to the Declaration it provides Class Counsel, which
6 Class Counsel shall file in support of Plaintiff's Motion for Final Approval. The Objection
7 should set forth in writing: (1) the Objector's name; (2) the Objector's address; (3) the last four
8 digits of the Objector's Social Security Number; (4) the Objector's signature; (5) a statement of
9 whether the Objector plans to appear at the Final Approval Hearing; and (6) the reason(s) for the
10 Objection, along with whatever legal authority, if any, the Objector asserts in support of the
11 Objection. If a Settlement Class Member objects to the Settlement, the Settlement Class Member
12 will remain a member of the Settlement Class and if the Court approves this Agreement, the
13 Settlement Class Member will be bound by the terms of the Settlement in the same way and to
14 the same extent as a Settlement Class Member who does not object. The date of mailing of the
15 Class Notice to the objecting Settlement Class Member shall be conclusively determined
16 according to the records of the Settlement Administrator. Settlement Class Members need not
17 object in writing to be heard at the Final Approval Hearing; they may object or comment in
18 person at the hearing at their own expense. Class Counsel and Defendant's Counsel may respond
19 to any objection lodged with the Court up to five (5) court days before the Final Approval
20 Hearing.

21 **C. Requesting Exclusion.**

22 Any Settlement Class Member may request exclusion from (*i.e.*, "opt out" of) the
23 Settlement by mailing a written request to be excluded from the Settlement ("Request for
24 Exclusion") to the Settlement Administrator, postmarked on or before the Response Deadline.
25 To be valid, a Request for Exclusion must include: (1) the Class Member's name; (2) the Class
26 Member's Social Security Number; (3) the Class Member's signature; and (4) the following
27 statement: "Please exclude me from the Settlement Class in the *Guillermo Cruz v. Alma Family*
28 *Services* matter" or a statement of similar meaning. The Settlement Administrator shall

1 immediately provide copies of all Requests for Exclusion to Class Counsel and Defendant's
2 Counsel and shall report the Requests for Exclusions that it receives, to the Court, in its
3 declaration to be provided in advance of the Final Approval Hearing. Any Settlement Class
4 Member who requests exclusion using this procedure will not be entitled to receive any payment
5 from the Settlement and will not be bound by the Settlement Agreement or have any right to
6 object to, appeal, or comment on the Settlement. Any Settlement Class Member who does not
7 opt out of the Settlement by submitting a timely and valid Request for Exclusion will be bound
8 by all terms of the Settlement, including those pertaining to the Released Claims, as well as any
9 Judgment that may be entered by the Court if Final Approval of the Settlement is granted. A
10 Settlement Class Member cannot submit both a Request for Exclusion and an objection. If a
11 Settlement Class Member submits an Objection and a Request for Exclusion, the Request for
12 Exclusion will control and the Objection will be overruled. Settlement Class Members who
13 worked during the PAGA Period as Aggrieved Employees that submit a valid Request for
14 Exclusion will still be deemed Aggrieved Employees, will still receive their Individual PAGA
15 Payments, and will be bound by the release of the PAGA Released Claims.

16 **D. Disputes Regarding Settlement Class Members' Workweek Data.**

17 Each Settlement Class Member may dispute the number of Workweeks attributed to him
18 or her on his or her Class Notice ("Workweek Dispute"). Any such disputes must be mailed to
19 the Settlement Administrator by the Settlement Class Member, postmarked on or before the
20 Response Deadline. The Settlement Administrator shall immediately provide copies of all
21 disputes to Class Counsel and counsel for Defendant and shall immediately attempt to resolve all
22 such disputes directly with relevant Settlement Class Member(s) with the assistance of Defendant
23 and Class Counsel. If the dispute cannot be resolved in this manner, the Court shall adjudicate the
24 dispute.

25 **10. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL**
26 **PAGA PAYMENTS**

27 Individual Settlement Payments will be calculated and distributed to Participating Class
28 Members from the Net Settlement Amount on a *pro rata* basis, based on the Participating Class

1 Members' respective number of Workweeks during the Class Period. Individual PAGA
2 Payments to Aggrieved Employees will be calculated and distributed to Aggrieved Employees
3 from the PAGA Payment on a *pro rata* basis based on Aggrieved Employees' respective
4 number of Workweeks during the PAGA Period. Specific calculations of the Individual
5 Settlement Shares and Individual PAGA Payments to Aggrieved Employees will be made as
6 follows:

7 **A.** The Settlement Administrator will determine the total number of Workweeks
8 worked by each Settlement Class Member during the Class Period ("Class Member's
9 Workweeks"), as well as the aggregate number of Workweeks worked by all Settlement Class
10 Members during the Class Period ("Class Workweeks"). Additionally, the Settlement
11 Administrator will determine the total number of Workweeks worked by each Aggrieved
12 Employee during the PAGA Period ("Aggrieved Employee's Workweeks"), as well as the
13 aggregate number of Workweeks worked by all Aggrieved Employees during the PAGA Period
14 ("PAGA Workweeks").

15 **B.** To determine each Settlement Class Member's Individual Settlement Share, the
16 Settlement Administrator will use the following formula: Individual Settlement Share =
17 $(\text{Settlement Class Member's Workweeks} \div \text{Class Workweeks}) \times \text{Net Settlement Amount}$.

18 **C.** To determine each Participating Class Member's Participating Individual
19 Settlement Share, the Settlement Administrator will determine the aggregate number of
20 Workweeks worked by all Participating Class Members during the Class Period ("Participating
21 Class Workweeks") and use the following formula: Individual Settlement Share =
22 $(\text{Participating Class Member's Workweeks} \div \text{Participating Class Workweeks}) \times \text{Net Settlement}$
23 Amount.

24 **D.** The net amount of the Participating Individual Settlement Share is to be paid out
25 to Participating Class Members by way of check and is referred to as "Individual Settlement
26 Payment(s)".

27 **E.** To determine each Aggrieved Employee's Individual PAGA Payment, the
28 Settlement Administrator will use the following formula: Aggrieved Employee's Individual

1 PAGA Payment = (Aggrieved Employee's Workweeks ÷ PAGA Workweeks) x \$6,250.00 (the
2 PAGA Payment).

3 F. Individual Settlement Payments and Individual PAGA Payments shall be paid
4 to Participating Class Members and/or Aggrieved Employees by way of check. When a
5 Participating Class Member is also an Aggrieved Employee, one check may be issued that
6 aggregates both the Individual Settlement Payment and the Individual PAGA Payment.

7 **11. DISTRIBUTION OF PAYMENTS**

8 **A. Distribution of Individual Settlement Payments.**

9 Participating Class Members will receive an Individual Settlement Payment and
10 Aggrieved Employees will receive an Individual PAGA Payment. Individual Settlement
11 Payment and Individual PAGA Payment checks shall remain valid and negotiable for one
12 hundred and eighty (180) calendar days after the date of their issuance. Within seven (7)
13 calendar days after expiration of the 180-day period, checks for such payments shall be
14 canceled and funds associated with such checks shall be considered unpaid, unclaimed or
15 abandoned cash residue pursuant to Code of Civil Procedure section 384 ("Unpaid
16 Residue"). The Unpaid Residue plus accrued interest, if any, as provided in Code of Civil
17 Procedure section 384, shall be transmitted to Legal Aid at Work, 180 Montgomery Street,
18 Suite 600, San Francisco, California 94104, the *cy pres* recipient, for use in Los Angeles
19 County. The Settlement Administrator shall prepare a report regarding the distribution plan
20 pursuant to Code of Civil Procedure section 384 and the report shall be presented to the Court
21 by Class Counsel along with a proposed amended judgment that is consistent with the
22 provisions of Code of Civil Procedure section 384.

23 **B. Funding of Settlement.**

24 Defendant shall, within seven (7) business days of Final Approval Date, make an initial
25 payment ("Initial Payment") of one-half of the Gross Settlement Amount (as the same may be
26 escalated pursuant to Paragraph 17 of this Agreement) to the Settlement Administrator for deposit
27 in an interest-bearing qualified settlement account (QSA) with an FDIC insured banking
28 institution, for distribution in accordance with this Agreement and the Court's Orders and subject

1 to the conditions described herein. Thereafter, Defendant shall pay the remaining one-half of the
2 Gross Settlement Amount (as the same may be escalated pursuant to Paragraph 17 of this
3 Agreement) in twelve (12) equal monthly installments to be paid to the Settlement Administrator
4 on the same calendar day of each month as the same calendar day that the Initial Payment was
5 made. Defendant shall pay the Employer Taxes applicable to the portion of the Net Settlement
6 Amount allocated to wages no later than with the final monthly installment payment. The
7 Settlement Administrator shall provide as soon as possible to Defendant's Counsel electronic
8 transfer instructions for Defendant to tender payment to the Settlement Administrator as
9 described in this Agreement. Defendant's payment of the Gross Settlement Amount is contingent
10 upon receipt of the payment instructions. Defendant expressly agrees to follow the Settlement
11 Administrator's payment instructions. The Parties agree that Defendant's payment obligations
12 with respect to each installment payment made under this Agreement shall be met upon initiating
13 the electronic transfer of funds to the Settlement Administrator, pursuant to its instructions,
14 provided, however, that any unsuccessful electronic transfer of funds be of no fault of Defendant.
15 In the event of an unsuccessful electronic transfer of funds, the Parties agree to cooperate in good
16 faith to resolve the issues.

17 **C. Time for Distribution.**

18 If Defendant fails to timely make an installment payment as set forth in this Agreement,
19 Defendant shall have fourteen (14) calendar days from the last day the payment is due to cure the
20 untimely installment payment. Defendant shall make any payment under this provision pursuant
21 to the Settlement Administrator's electronic transfer instructions. The Parties expressly agree that
22 the Defendant's payment obligations with respect to any cure shall be met upon initiating the
23 electronic transfer of funds to the Settlement Administrator, pursuant to its instructions

24 **D. Time for Distribution.**

25 Within seven (7) calendar days after payment of the full Gross Settlement Amount and
26 Employer Taxes by Defendant, or as soon thereafter as practicable, the Settlement Administrator
27 shall distribute Payments from the QSA for: (1) the Service Award to Plaintiff as specified in
28 this Agreement and approved by the Court; (2) the Attorneys' Fees and Cost Award to be paid

1 to Class Counsel, as specified in this Agreement and approved by the Court; (3) the Settlement
2 Administrator Costs, as specified in this Agreement and approved the Court; (4) the LWDA
3 Payment, as specified in this Agreement and approved by the Court; and (5) Individual PAGA
4 Payments as specified in this Agreement and approved by the Court. The balance remaining
5 shall constitute the Net Settlement Amount from which Individual Settlement Payments shall be
6 made to Participating Class Members, less applicable taxes and withholdings. All interest
7 accrued shall be for the benefit of the Class Members and distributed on a *pro rata* basis to
8 Participating Class Members based on the number of Workweeks worked by them in the Class
9 Period.

10 **12. ATTORNEYS' FEES AND LITIGATION COSTS**

11 Class Counsel shall apply for, and Defendant shall not oppose, an award of attorneys'
12 fees of up to 35% of the Gross Settlement Amount, which, unless escalated pursuant to Paragraph
13 17 of this Agreement, amounts to Two Hundred Sixty-Two Thousand Five Hundred Dollars and
14 Zero Cents (\$262,500.00). Class Counsel shall further apply for, and Defendant shall not oppose,
15 an application or motion by Class Counsel for reimbursement of actual costs associated with
16 Class Counsel's prosecution of this matter as set forth by declaration testimony in an amount up
17 to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). Awards of attorneys' fees and
18 costs shall be paid out of the Gross Settlement Amount, for all past and future attorneys' fees and
19 costs necessary to prosecute, settle, and obtain Final Approval of the settlement in Action. The
20 "future" aspect of the amounts stated herein includes, without limitation, all time and expenses
21 expended by Class Counsel (including any appeals therein). There will be no additional charge
22 of any kind to either the Settlement Class Members or request for additional consideration from
23 Defendant for such work unless, Defendant materially breach this Agreement, including any term
24 regarding funding, and further efforts are necessary from Class Counsel to remedy said breach,
25 including, without limitation, moving the Court to enforce the Agreement. Should the Court
26 approve attorneys' fees and/or litigation costs and expenses in amounts that are less than the
27 amounts provided for herein, then the unapproved portion(s) shall be a part of the Net Settlement
28 Amount.

1 **13. SERVICE AWARD TO PLAINTIFF**

2 Named Plaintiff shall seek, and Defendant shall not oppose, a Service Award in an
3 amount not to exceed Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) for
4 participation in and assistance with the Class Action. Any Service Award awarded to Plaintiff
5 shall be paid from the Gross Settlement Amount and shall be reported on an IRS Form 1099. If
6 the Court approves the Service Award to Plaintiff in less than the amounts sought herein, then
7 the unapproved portion(s) shall be a part of the Net Settlement Amount.

8 **14. TAXATION AND ALLOCATION**

9 a. Each Individual Settlement Share shall be allocated as follows: 20% as wages (to
10 be reported on an IRS Form W2); and 80% as interest and penalties (to be reported on an IRS
11 Form 1099). Each Individual PAGA Payment shall be allocated entirely as penalties. The Parties
12 agree that the employees' share of taxes and withholdings with respect to the wage-portion of the
13 Individual Settlement Share will be withheld from the Individual Settlement Share in order to
14 yield the Individual Settlement Payment. The amount of federal income tax withholding will be
15 based upon a flat withholding rate for supplemental wage payments in accordance with Treasury
16 Regulation § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also
17 be made pursuant to applicable state and/or local withholding codes or regulations.

18 b. Forms W-2 and/or Forms 1099 will be distributed by the Settlement
19 Administrator at times and in the manner required by the Internal Revenue Code of 1986 (the
20 "Code") and consistent with this Agreement. If the Code, the regulations promulgated
21 thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes
22 set forth in this Section may be modified in a manner to bring Defendant into compliance with
23 any such changes.

24 c. All Employer Taxes shall be paid by Defendant separate, apart, and in addition to
25 the Gross Settlement Amount. Defendant shall remain liable to pay the employer's share of
26 payroll taxes as described above.

27 d. Neither Counsel for Plaintiff nor Defendant intend anything contained in this
28 Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Agreement

1 be relied upon as such within the meaning of United States Treasury Department Circular 230
2 (31 C.F.R. Part 10, as amended) or otherwise.

3 **15. PRIVATE ATTORNEYS' GENERAL ACT ALLOCATION**

4 The Parties agree to allocate Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00)
5 of the Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA, seventy-five
6 percent (75%) of the amount allocated toward PAGA (\$18,750.00) will be paid to the LWDA
7 and twenty-five percent (25%) (\$6,250.00) will be distributed to Aggrieved Employees on a *pro*
8 *rata* basis based upon their respective Workweeks worked as Aggrieved Employees during the
9 PAGA Period.

10 **16. COURT APPROVAL**

11 This Agreement is contingent upon an order by the Court granting Final Approval of the
12 Settlement, and that the LWDA does not intervene and object to the Settlement. In the event it
13 becomes impossible to secure approval of the Settlement by the Court and the LWDA, the Parties
14 shall be restored to their respective positions in the Action prior to entry of this Settlement. If
15 this Settlement Agreement is voided, not approved by the Court or approval is reversed on appeal,
16 it shall have no force or effect and no Party shall be bound by its terms except to the extent: (a)
17 the Court reserves any authority to issue any appropriate orders when denying approval; and/or
18 (b) there are any terms and conditions in this Settlement Agreement specifically stated to survive
19 the Settlement Agreement being voided or not approved, and which control in such an event.

20 **17. INCREASE IN WORKWEEKS**

21 Defendant represents that there are approximately 31,925 Workweeks worked during
22 the period from May 14, 2017, through January 13, 2022. In the event the number of
23 Workweeks worked by Class Members during the Class Period increases by more than 10%,
24 or 3,193 Workweeks, then the Gross Settlement Amount shall be increased proportionally by
25 the Workweeks in excess of 35,118 Workweeks (31,925 Workweeks + 3,193 Workweeks)
26 multiplied by the Workweek Value. The Workweek Value shall be calculated by dividing the
27 originally agreed-upon Gross Settlement Amount (\$750,000.00) by 31,925, which amounts to
28 a Workweek Value of \$23.49. Thus, for example, should there be 36,000 Workweeks in the

1 Class Period, then the Gross Settlement Amount shall be increased by \$20,718.18. ((36,000
2 Workweeks – 35,118 Workweeks) x \$23.49 per Workweek.)

3 **18. NOTICE OF JUDGMENT**

4 In addition to any duties set out herein, the Settlement Administrator shall provide
5 notice of the Final Judgment entered in the Action by posting the same on its website for a
6 period of no less than four (4) years.

7 **19. WITHDRAWAL FROM SETTLEMENT BASED ON REQUESTS FOR**
8 **EXCLUSION**

9 Defendant shall retain the right to nullify the Agreement in the event that more than
10 10% of Class Members submit timely and valid Requests for Exclusion. Defendant must
11 provide written notice to Class Counsel of their withdrawal within ten (10) calendar days of
12 receiving sufficient information to determine that the opt out rate exceeds 10%. If Defendant
13 exercises this right, it shall be solely responsible for the costs incurred for settlement
14 administration up to the date of nullification.

15 **20. MISCELLANEOUS PROVISIONS**

16 **A. Interpretation of the Agreement.**

17 This Agreement constitutes the entire agreement between the Parties with respect to its
18 subject matter. Except as expressly provided herein, this Agreement has not been executed in
19 reliance upon any other written or oral representations or terms, and no such extrinsic oral or
20 written representations or terms shall modify, vary or contradict its terms. In entering into this
21 Agreement, the Parties agree that this Agreement is to be construed according to its terms and
22 may not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and
23 enforced under the laws of the State of California, both in its procedural and substantive aspects,
24 without regard to its conflict of law provisions. Any claim arising out of or relating to the
25 Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior
26 Court of the State of California for the County of Los Angeles, and Plaintiff and Defendant
27 hereby consent to the personal jurisdiction of the Court in the Action over it solely in connection
28 therewith. The foregoing is only limited to disputes concerning this Agreement. The Parties,

1 and each of them, participated in the negotiation and drafting of this Agreement and had available
2 to them the advice and assistance of independent counsel. As such, neither Plaintiff nor
3 Defendant may claim that any ambiguity in this Agreement should be construed against the other.
4 The Agreement may be modified only by a writing signed by counsel for the Parties and approved
5 by the Court.

6 **B. Further Cooperation.**

7 The Parties and their respective attorneys shall proceed diligently to prepare and execute
8 all documents, to seek the necessary approvals from the Court, and to do all things reasonably
9 necessary to consummate the Settlement as expeditiously as possible. The Parties agree that they
10 will not take any action inconsistent with this Agreement, including, without limitation,
11 encouraging Class Members to opt out of the Settlement. In the event the Court finds that any
12 Party has taken actions inconsistent with the Settlement, including, without limitation,
13 encouraging Class Members to opt out of the Settlement, the Court may take any corrective
14 actions, including enjoining any Party from communicating regarding the Settlement on an *ex*
15 *parte* basis, issuing (a) corrective notice(s), awarding monetary, issue, evidentiary and/or
16 terminating sanctions against that Party, and/or enforcing this Agreement despite the presence of
17 opt-outs and/or objections.

18 **C. Counterparts.**

19 The Agreement may be executed in one or more actual or non-original counterparts, all
20 of which will be considered one and the same instrument and all of which will be considered
21 duplicate originals.

22 **D. Authority.**

23 Each individual signing below warrants that he or she has the authority to execute this
24 Agreement on behalf of the Party for whom or which that individual signs.

25 **E. No Third-Party Beneficiaries.**

26 Plaintiff, Participating Class Members, Aggrieved Employees, the State of California,
27 Class Counsel, and Defendant are direct beneficiaries of this Agreement, but there are no third-
28 party beneficiaries.

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F. Deadlines Falling on Weekends or Holidays.

To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.

G. Severability.

In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant’s Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:

Dated: Apr 20, 2022, 2022

Guillermo Cruz
Guillermo Cruz (Apr 20, 2022 18:23 PDT)
GUILLERMO CRUZ
Plaintiff and Class Representative

Dated: _____, 2022

ALMA FAMILY SERVICES
Defendant
By:
Its:

AGREED AS TO FORM ONLY:

Dated: April 25, 2022

Vedang J. Patel
DAVID D. BIBIYAN
VEDANG J. PATEL
Counsel for Plaintiff Guillermo Cruz

Dated: _____, 2022

ALFRED J. LANDEGGAR
EVELYN ZARRAGA
Counsel for Defendant Alma Family Services

F. Deadlines Falling on Weekends or Holidays.

To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.

G. Severability.

In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:

Dated: _____, 2022

GUILLERMO CRUZ
Plaintiff and Class Representative

Dated: 4/21/2022, 2022

DocuSigned by:
Maria de Lourdes Caracoza
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ALMA FAMILY SERVICES
Defendant
By: *Lourdes Caracoza*
Its: *President/CEO*

AGREED AS TO FORM ONLY:

Dated: _____, 2022

DAVID D. BIBIYAN
VEDANG J. PATEL
Counsel for Plaintiff Guillermo Cruz

Dated: 4/21/2022, 2022

DocuSigned by:
Evelyn Zarraga
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ALFRED J. LANDEGGAR
EVELYN ZARRAGA
Counsel for Defendant Alma Family Services