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County of Santa Clara
21CV387173
By: afloresca

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7 FELIS A. PEREZ, and all others similarly situated
8 (Additional attorneys for Plaintiff(s) on following page)

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF SANTA CLARA**
11 **(UNLIMITED JURISDICTION)**

12 FELIS A. PEREZ, on behalf of himself, all
13 others similarly situated, the general public, and
14 as an "aggrieved employee" on behalf of other
15 "aggrieved employees" under the Labor Code
16 Private Attorneys General Act of 2004,

Case No.: 21CV387173

[PROPOSED] AMENDED JUDGMENT

17 *Plaintiff(s),*

18 vs.

19 NXEDGE MH, LLC, a Delaware limited
20 liability company; NXEDGE SAN CARLOS,
21 LLC, a Delaware limited liability company;
22 NXEDGE CSL, LLC, a Nevada limited
23 liability company; and DOES 3–50, inclusive,

24 *Defendant(s).*



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ADDITIONAL ATTORNEYS FOR PLAINTIFF(S)

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Attorneys for Plaintiff(s),
FELIS A. PEREZ, and all others similarly situated



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1 The Court entered its Final Approval Order and Judgment Approving Class Settlement
2 (“Final Approval Order and Judgment”) on February 9, 2024. All terms of that Final Approval
3 Order and Judgment are incorporated into this Amended Judgment and remain unchanged
4 except as specially modified by this Amended Judgment.

5 In accordance with the Court’s prior ruling granting Preliminary Approval of Class
6 Action Settlement, Class Members have been given notice of the terms of the Settlement and
7 the opportunity to request exclusion, comment upon or object to it or to any of its terms. Having
8 received and considered the Settlement, the supporting papers filed by the Parties, and the
9 evidence and argument received by the Court in conjunction with the motions for preliminary
10 and final approval of the Settlement, the Court granted final approval of the Settlement and
11 HEREBY ADJUDGES, DECREES AND MAKES THE FOLLOWING DETERMINATIONS:

12 1. The Court has jurisdiction over the subject matter of the Action and over all
13 Parties to the Action, including all Class Members who did not request to be excluded from the
14 Settlement. Pursuant to this Court’s order granting the Motion for Preliminary Approval of Class
15 Action Settlement of April 24, 2023, the Class Notice was sent to each Class Member by First
16 Class U.S. mail. The Class Notice informed Class Members of the terms of the Settlement, their
17 right to receive their proportional share of the Settlement, their right to request exclusion, their
18 right to comment upon or object to the Settlement, and their right to appear in person or by
19 counsel at the final approval hearing and be heard regarding final approval of the Settlement.
20 Adequate periods of time were provided by each of these procedures. No member of the Class
21 presented written objections to the proposed Settlement as part of this notice process, stated an
22 intention to appear, or actually appeared at the final approval hearing.

23 2. For purposes of this Settlement, hourly, non-exempt employee the “Class
24 Members” means all person Defendants employed in California as regular full-time or part-time
25 hourly, non-exempt employees (current and former) who have not executed releases of claims
26 under the California Labor Code and/or applicable Wage Orders/regulations during the Class
27 Period. Settlement, ¶ I.B. The “Class Period” means the period of time from September 29, 2017
28 through July 03, 2022. Settlement, ¶ I.F.



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1 3. The Court found and determined that the notice procedure afforded adequate
2 protections to Class Members and provides the basis for the Court to make an informed decision
3 regarding final approval of the Settlement based on the responses of Class Members. The Court
4 found and determined that the notice provided in this case was the best notice practicable, which
5 satisfied the requirements of law and due process as to all persons entitled to such notice.

6 4. **Release by Plaintiff and Class Members.** Upon the Effective Date, and only
7 after Defendants pay the entirety of the Gross Settlement Amount, Plaintiff will be deemed to
8 have released the Released Parties of and from all of the Released Claims during the Class
9 Period. These claims include all claims alleged or could have been alleged based on the facts,
10 circumstances, and/or primary rights at issue in the Complaint and any amendments thereto.
11 They include without limitation: failure to pay all wages for all hours worked, unauthorized and
12 unlawful wage deductions, failure to provide meal periods, failure to authorize and permit rest
13 periods, failure to compensate employees at one hour's pay at employees' regular rate of pay
14 for each day on which employees did not receive one or more meal or rest periods, failure to
15 issue proper wage statements, failure to timely pay wages, failure to maintain required payroll
16 records, unfair business practices that could have been premised on the claims, causes of action
17 or legal theories of relief described above or any of the claims, causes of action or legal theories
18 of relief pleaded in the Action, all claims under PAGA or for civil penalties that could have been
19 premised on the claims, causes of action or legal theories described above or any of the claims,
20 causes of action or legal theories of relief pleaded in the Action or Plaintiff's letter(s) to the
21 LWDA, including but not limited to the California Code of Regulations and to Labor Code
22 sections 201, 202, 203, 204, 210, 218.5, 218.6, 221, 226, 226.3, 226.7, 510, 512, 558, 1174,
23 1174.5, 1175, 1182.12, 1194, 1197, 1197.1, 1198, 2698, 2699, all applicable IWC Wage Orders
24 and order provisions, and any and all damages, restitution, disgorgement, civil penalties,
25 statutory penalties, taxes, interest or attorneys' fees or costs resulting therefrom. Released
26 Claims shall not apply to claims for workers' compensation benefits, unemployment insurance
27 benefits, or any other claim or right that as a matter of law cannot be waived or released.
28 Released Claims includes any claims for penalties by a PAGA Member resulting from any



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1 LWDA investigation. Plaintiff's release set forth herein shall include a waiver of all rights under
2 California Civil Code §1542, which includes a release of all known and unknown claims against
3 the Released Parties during the Class Period. Civil Code section 1542 provides:

4 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR
5 OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
6 FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY
7 HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT
8 WITH THE DEBTOR.

9 Upon the Effective Date, Plaintiff will be deemed to have waived his rights under Civil
10 Code §1542 during the Class Period, as set forth above. Plaintiff's release excludes any claim
11 for worker's compensation. It also includes any claims arising out of or relating to Plaintiff's
12 employment relationship with Defendants based on events pre-dating Plaintiff's execution of
13 this Joint Stipulation, including but not limited to claims for harassment, discrimination,
14 wrongful termination, negligent infliction of emotional distress and intentional infliction of
15 emotional distress and related prayers for compensatory and punitive damages, interest, attorney
16 fees and costs. Settlement § V.

17 5. The Court further found and determined that the terms of the Settlement are fair,
18 reasonable and adequate, that the Settlement is ordered finally approved, and that all terms and
19 provisions of the Settlement, including the release of claims contained therein, should be and
20 hereby are ordered to be consummated, and directed the Parties to effectuate the Settlement
21 according to its terms. As of the Effective Date of Settlement, and for the duration of the Class
22 Period, all Class Members have been deemed to have waived and released all Released Claims
23 and are forever barred and enjoined from prosecuting the Released Claims against the Released
24 Parties as fully set forth in the Settlement. ("Released Parties" shall mean Defendants, and any
25 of their former and present agents, employees, servants, officers, directors, partners, trustees,
26 representatives, shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors,
27 related corporations, divisions, joint venturers, assigns, predecessors, successors, service
28 providers, insurers, consultants, subcontractors, joint employers, employee benefit plans and



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1 fiduciaries thereof, affiliated organizations, and all persons acting under, by, through or in
2 concert with any of them, and each of them.) No objections or exclusions were received by the
3 Parties or the Court through the date of the Final Order and Judgment.

4 6. The Court found and determined that (a) the Settlement Shares to be paid to
5 Participating Class Members and (b) the \$15,000.00 payment to the LWDA for the PAGA
6 penalty under the California Labor Code Private Attorneys General Act of 2004, as amended,
7 California Labor Code sections 2699 et seq., as provided for by the Settlement are fair and
8 reasonable. The Court granted final approval to, and ordered the payment of, those amounts be
9 made to the Participating Class Members and to the California Labor & Workforce Development
10 Agency, in accordance with the terms of the Settlement.

11 7. The Court further granted final approval to and ordered that the following
12 payments be made in accordance with the terms of the Settlement:

13 a. A Class Counsel Fees Payment in the amount of \$413,999.00 for
14 attorney's fees and a Class Counsel Litigation Expenses in the amount of \$12,172.96 to Class
15 Counsel;

16 b. \$25,000.00 as a Class Representative Payment payable to Plaintiff Felis
17 A. Perez for his service as the class representative;

18 c. \$11,000.00 in Settlement Administrator's fees payable to Simpluris, Inc.
19 for its services as the Settlement Administrator;

20 d. Payment of \$15,000.00 (75% of the \$20,000.00 PAGA penalty) to the
21 LWDA; and

22 e. Employer-side payroll taxes (to be paid in addition to the Gross
23 Settlement Amount) by Defendant.

24 8. The settlement administration proceeded as directed in the Settlement, and no
25 payments pursuant to the Settlement were distributed until after the Effective Date. Without
26 affecting the finality of the Final Order and Judgment and this Amended Judgment in any way,
27 the Court retains jurisdiction of all matters relating to the interpretation, administration,
28 implementation, effectuation and enforcement of the Final Order and Judgment, this Amended



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1 Judgment, and the Settlement pursuant to California Rule of Court 3.769(h).

2 9. Defendants deposited the Settlement proceeds in an account designated by the
3 Settlement Administrator consistent with the terms of the Settlement and the Final Approval
4 Order and Judgment.

5 10. Defendants' payment of such sums shall be the sole financial obligation of
6 Defendants under the Settlement and shall be in full satisfaction of all claims released herein,
7 including, without limitation, all claims for wages, penalties, interest, attorney fees, costs and
8 expenses.

9 11. Pursuant to CCP 384 and the Settlement, any check issued by the Settlement
10 Administrator to Class Members who do not timely and validly opt out shall be negotiable for
11 one hundred and eighty (180) calendar days. Those funds represented by checks returned as
12 undeliverable and those checks remaining un-cashed for more than 180 days after issuance
13 (collectively, "Voided Settlement Checks"), plus any interest that has accrued on those funds,
14 will be paid to Legal Aid at Work.

15 12. Upon review of the declaration from the Settlement Administrator (Declaration
16 Of Lindsay Romo Regarding Disbursement), the Participating Class Members' check cashing
17 period ended on September 3, 2024, and twenty-six (26) checks totaling \$15,300.71 remained
18 uncashed. The Court hereby orders that a payment shall be made to Legal Aid at Work as the
19 *Cy Pres* Recipient in the amount of \$15,300.71, plus interest, pursuant to Code of Civil
20 Procedure § 384.

21 13. Nothing in the Final Order and Judgment and this Amended Judgment shall
22 preclude any action to enforce the Parties' obligations under the Settlement or hereunder.

23 14. The Court hereby enters final Judgment in this case in accordance with the terms
24 of the Settlement, Order Granting Motion for Preliminary Approval of Class Action Settlement,
25 and the Final Order and Judgment and this Amended Judgment.

26 15. The Parties are hereby ordered to comply with the terms of the Settlement.

27 16. The Parties shall bear their own costs and attorney fees except as otherwise
28 provided by the Settlement and the Final Order and Judgment and this Amended Judgment.



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1 17. The Settlement is not an admission by Defendants nor are the Final Order and
2 Judgment and this Amended Judgment a finding of the validity of any claims in the Action or
3 of any wrongdoing by Defendants. Furthermore, the Settlement is not a concession by
4 Defendants and shall not be used as an admission of any fault, omission, or wrongdoing by
5 Defendants. Neither the Final Order and Judgment, this Amended Judgment, Settlement, any
6 document referred to herein, any exhibit to any document referred to herein, any action taken to
7 carry out the Settlement, nor any negotiations or proceedings related to the Settlement are to be
8 construed as, or deemed to be evidence of, or an admission or concession with regard to, the
9 denials or defenses of Defendants, and shall not be offered in evidence in any proceeding against
10 the Parties hereto in any Court, administrative agency, or other tribunal for any purpose
11 whatsoever other than to enforce the provisions of the Final Order and Judgment and this
12 Amended Judgment. The Final Order and Judgment, this Amended Judgment, the Settlement
13 and exhibits thereto, and any other papers and records on file in the Action may be filed in this
14 Court or in any other litigation as evidence of the settlement by Defendants to support a defense
15 of res judicata, collateral estoppel, release, or other theory of claim or issue preclusion or similar
16 defense as to the Released Claims.

17 18. This document shall constitute a judgment for purposes of California Rule of
18 Court 3.769(h).

19 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

20 Date: October 3, 2024
21 _____

22 
23 _____
24 **THE HON. THEODORE C. ZAYNER**
25 **JUDGE OF THE SUPERIOR COURT**
26



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PROOF OF SERVICE

State of California,
County of Los Angeles

1. I am a citizen of the United States and am employed in the County of Los Angeles, State of California. I am over the age of 18 years, and not a party to the within action. My business address is 1801 Century Park East, 25th Fl, Los Angeles, CA 90067.

2. I am familiar with the practice of The Spivak Law Firm, for collection and processing of correspondence for mailing with the United States Postal Service. It is the practice that correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On Friday, September 20, 2024, I served the foregoing document described as **[PROPOSED] AMENDED JUDGMENT** on interested parties by electronic mail, addressed as follows:

Dora Lane Esq.
Sarah J. Walsh, Esq.
HOLLAND & HART LLP
5441 Kietzke Lane, Second Floor
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DLane@hollandhart.com
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XXXX (BY EMAIL) I caused the documents to be sent to the persons at the electronic service addresses listed above from my electronic service address emily@spivaklaw.com.

EXECUTED on Friday, September 20, 2024, at Burbank, California.

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

____ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


EMILY HONG LY



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