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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ALVALYN LUNDGREN, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

OTIS COLLEGE OF ART AND DESIGN, a
California Corporation,
Defendant.

Case No. 22STCV14633

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

Date: January 12, 2023
Time: 10:00 a.m.
Dept. 14

1 This matter is before the Court on Plaintiff's unopposed Motion for Preliminary Approval of
2 Class Action Settlement of the above-entitled case. The motion, having been fully considered by the
3 Court, and it appearing to the Court that the settlement set forth herein is within the range of
4 reasonableness, and that a hearing should and will be held after notice to the Classes to confirm that the
5 proposed Settlement Agreement is fair, adequate and reasonable, and to determine whether a judgment
6 should be entered in this action thereon, **IT IS HEREBY ORDERED THAT:**

7 1. This Order hereby incorporates by reference the definitions in the Settlement Agreement,
8 attached hereto as **Exhibit 1**, and all terms used herein shall have the same meaning as set forth in the
9 Settlement Agreement.

10 2. This Court preliminarily approves the Settlement Agreement and finds that it is within the
11 range of reasonableness as to the Classes and Defendant, and is the product of good faith, arm's length
12 negotiations between the parties.

13 3. This Court certifies provisional classes for the purposes of this settlement defined as: (i)
14 "Adjunct Class Members" who were employed by Defendant in California as adjunct lecturers between
15 August 1, 2017 and August 3, 2022 (the "Adjunct Class Period"); and (2) "Reimbursement Class
16 Members" who are persons other than adjunct instructors employed by Defendant in California and who
17 were required to work remotely at any time during the period between March 4, 2020 and August 3, 2022
18 (the "Reimbursement Class Period")(Adjunct Class Members and Reimbursement Class Members are
19 collectively referred to as "Class Members").

20 4. The Court finds that for the purposes of settlement, Plaintiff has established in his moving
21 papers and supporting declaration all of the requirements for certification of the provisional settlement
22 classes pursuant to California Rule of Court, Rule 3.769(d).

23 5. The Court appoints and designates Plaintiff as the Class Representative for the classes,
24 and the law firm HammondLaw, P.C. as Class Counsel.

25 6. The Court preliminarily approves payment from the Gross Settlement Amount of the
26 Enhancement Award to the named Plaintiff; and payment of attorneys' fees and costs to Class Counsel
27 as set forth in the Settlement Agreement.

1 7. The Court hereby approves, as to form and content, the proposed Class Notice, attached
2 as **Exhibit A** to the Settlement Agreement; the procedure for providing notice to the Class; and the
3 procedure for the Class Members to object to, or request exclusion from, the Settlement.

4 8. The Court appoints and designates Simpluris, Inc. as the Settlement Administrator and
5 directs the Settlement Administrator to provide the approved Class Notice in accordance with the
6 schedule set forth in the Settlement Agreement.

7 9. Class Members will have forty-five (45) calendar days from the date of the first mailing
8 to submit requests for exclusion and/or objections (“Response Deadline”). Unless a Class Members
9 submits a valid and timely Request for Exclusion as provided in the Settlement Agreement, he/she will
10 automatically become a Settlement Class Member. Class Members who wish to be excluded from the
11 settlement must do so in writing and must include the Class Member’s full name, signature, address, last
12 four digits of his or her social security number, case name, case number, and a clear statement that he or
13 she seeks to be excluded from the Settlement.

14 10. Class Members who wish to object to the settlement must do so in writing and must
15 include the Class Member’s full name, address, last four digits of his or her social security number, case
16 name, case number, and a clear statement of the basis for his or her objection. All exclusions and
17 objections must be mailed to the Settlement Administrator and postmarked no later than the Response
18 Deadline.

19 11. Class Members will have the right to challenge the number of pay periods listed on their
20 Class Notices. Adjunct Members who wish to dispute the number of pay periods must do so in writing
21 and must include the Class Member’s full name, address, signature, last four digits of his or her Social
22 Security number, and any facts supporting the Class Member’s dispute, along with any supporting
23 materials confirming that the Credits attributed to him or her are incorrect. Challenges to the number of
24 pay periods must be sent to the Settlement Administrator and postmarked no later than the Response
25 Deadline. Challenges shall be resolved without hearing by the Settlement Administrator, who will
26 examine Defendant’s records and any document or information presented by the Adjunct Class Member
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1 making the challenge, Class Counsel, or Defendant's Counsel. The Settlement Administrator's
2 determination of disputes shall be final and binding.

3 12. The Final Approval Hearing shall be held on _____to
4 determine whether the Settlement Agreement is fair, adequate, reasonable, and should be approved.

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6 **IT IS SO ORDERED.**

7 Date: _____, 2022

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10 HON. KENNETH FREEMAN
11 Judge of the Superior Court
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EXHIBIT 1

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8
9 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

10 **COUNTY OF LOS ANGELES**

11
12 **ALVALYN LUNDGREN**, individually and on
behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15
16 **OTIS COLLEGE OF ART AND DESIGN**, a
California Corporation,

17 Defendant.
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CASE NO. 22STCV14633

**CLASS ACTION SETTLEMENT
AGREEMENT**

1 This Class Action Settlement Agreement (“Settlement Agreement”) is made and entered into
2 between Plaintiff Alvalyn Lundgren (“Plaintiff” or “Class Representative”) on the one hand,
3 individually and on behalf of the Settlement Classes (as defined below), by and through HammondLaw,
4 P.C. (“Class Counsel”), and Defendant Otis College of Art and Design (“Defendant”) on the other hand
5 subject to the approval of the Court, as provided below.

6 **1. Definitions.**

7 As used herein, for the purposes of this Settlement Agreement only, the following terms will be
8 defined as set forth below:

9 **1.1** “Action” refers to the civil action entitled: *Lundgren v Otis College of Art and Design*,
10 Case No. 22STCV14633, in the Superior Court of California, County of Los Angeles.

11 **1.2** “Class Counsel” refers to the attorneys of record for the Class Representatives, *i.e.*,
12 HammondLaw, P.C.

13 **1.3** “Class Member” refers to Adjunct Class Members and Reimbursement Class Members.

14 **1.4** “Adjunct Class Member” refers to all non-exempt part-time faculty and instructors
15 employed by Defendant in California during the Adjunct Class Period.

16 **1.5** “Adjunct Class Period” means August 1, 2017 through the earlier of August 3, 2022 or the
17 date of preliminary approval, as agreed to for settlement purposes only.

18 **1.6** “Class Notice” refers to the form of direct-mail notice substantially in the form attached as
19 “**Exhibit A**”.

20 **1.7** “Complaint” refers to the operative Complaint in this Action.

21 **1.8** “Final Approval Hearing” refers to the hearing at which the Court will make a final
22 determination whether the terms of the Settlement are fair, reasonable, and adequate for the Class and
23 meet all applicable requirements for approval.

24 **1.9** “Final Approval Order” refers to the final order by the Court approving the Settlement
25 following the Final Approval Hearing and entering final judgment.

26 **1.10** “Effective Date” refers to the date on which the Defendant transmits the Gross Settlement
27 Amount pursuant to Section 4 below.

28 **1.11** “Gross Settlement Amount” (also referred to herein as “GSA”) refers to the maximum
settlement payment of Nine Hundred and Ninety Thousand Dollars (\$990,000) Defendant will be

obligated to make, except that Defendant shall bear, in addition, all employer-side payroll tax payments due and payable as a result of this Settlement.

1.12 “Net Settlement Amount” (also referred to herein as “NSA”) is the GSA minus Court-approved attorney’s fees and litigation costs, Settlement Administration Costs, Enhancement Award, and the LWDA’s share of the amount of the GSA allocated to PAGA Penalties. The NSA is the maximum amount that will be available for distribution to Settlement Class Members.

1.13 “Parties” are Plaintiff and Defendant.

1.14 “PAGA Period” means the period from October 8, 2020 through the earlier of August 3, 2022 or the date of preliminary approval.

1.15 “Reimbursement Class Member” refers to all current or former employees of Defendant in California other than Adjunct Class Members who were required to work from home during the Reimbursement Class Period and allegedly did not receive proper expense reimbursement.

1.16 “Reimbursement Class Period” means the period between March 4, 2020 and the earlier of August 3, 2022 or the date of preliminary approval.

1.17 “Released Parties” include Defendant and its accountants, insurers, attorneys, trustees, agents, affiliated entities, successors, heirs, advisors, employees, directors, and officers.

1.18 “Request for Exclusion” refers to a request to be excluded from the Settlement, mailed to the Administrator and postmarked on or before the Response Deadline.

1.19 “Response Deadline” is 45 days calendar days after the date that the Class Notice is mailed to Class Members.

1.20 “Enhancement Award” refers to monetary awards to the Plaintiff, not to exceed Seven Thousand Five Hundred Dollars (\$7,500).

1.21 “Settlement Administrator” refers to Simpluris, Inc., the third-party administrator mutually selected by the parties.

1.22 “Settlement Administration Costs” refers to the cost of Settlement Administration. This cost will be paid out of the GSA, in an amount not to exceed Twenty Thousand Dollars (\$20,000).

1.23 “Settlement Class Member” refers to Class Members who do not request exclusion from the Settlement.

1.24 “Settlement Payment” refers to the amount paid to Settlement Class Member.

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2. Procedural History and Recitals.

On October 8, 2021, Plaintiff filed a PAGA Notice with the LWDA alleging Defendant (a) failed to pay wages for all hours worked as required under Labor Code §§ 226.2 and 1194 and IWC Wage Order No. 4-2001 § 4; (b) failed to authorize and permit paid rest breaks and pay premium pay as required under Labor Code §§ 226.2 and 226.7 and Wage Order No. 4-2001, §§ 4, 12; (c) failed to pay compensation due on discharge from employment in violation of Cal. Labor Code §§ 201-203; (d) failed to issue accurate itemized wage statements in violation of Cal. Labor Code §§ 226(a) and (e) and 226.2; (e) failed to maintain accurate payroll records in violation of Labor Code §§ 1174(d) and 1174.5; and (vi) failed to reimburse business-related expenses in violation of Labor Code § 2802. On November 1, 2021, the Parties executed a Tolling Agreement to toll the statutes of limitations applicable to Plaintiff's PAGA and class claims until March 22, 2022.

On February 22, 2022 the Parties participated in a mediation session with Lisa Klerman, an experienced mediator who has mediated numerous wage-hour class actions. At the mediation session, the Parties reached the basic terms of a settlement memorialized in this agreement, and agreed to file a class and representative action complaint in Superior Court. On May 3, 2022, Plaintiff filed his Complaint alleging class causes of action for the labor code violations alleged in his October 8, 2021, PAGA Notice as well as a cause of action for unfair, unlawful, and/or fraudulent business practices in violation of Business & Professions Code § 17200, *et seq.*

2.1 This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of liability or wrongdoing. Defendant makes no admission of liability or wrongdoing by virtue of entering into this Agreement. Additionally, Defendant reserves the right to contest any issues relating to class certification and liability if the Settlement is not approved. Defendant denies that it has engaged in any unlawful activity, has failed to comply with the law in any respect, has any liability to anyone under the claims asserted in the Action, or that but for the Settlement, a Class should be certified in the Action. This Settlement and Plaintiff's and Defendant's willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with this Settlement). Notwithstanding, in the interest of avoiding further litigation, Defendant desires to fully and finally settle the Action and Released Claims.

1 **2.2** As set forth above, without admitting any wrongdoing or liability, Defendant is willing to
2 agree to the terms of the Settlement in order to settle, compromise, and fully resolve the Action and
3 Released Claims.

4 **3. Limitation on Effect of Settlement.**

5 The Parties agree that certification of a class is appropriate for settlement purposes only. In the
6 event that the Settlement is not finally approved, or the Settlement is otherwise terminated, and any class
7 and representative action, which were certified for settlement purposes only, shall be vacated, and shall
8 be of no force or effect whatsoever and shall not be admissible nor construed as an admission or
9 concession of any kind by the Parties, in whole or part, and Defendant expressly reserves all rights to
10 challenge certification of a class on all available grounds.

11 **4. Establishment of the GSA.**

12 Within 45 calendar days of the date the Final Approval Order is signed if no objections to the
13 Settlement are filed, or if objections are filed and overruled, then 61 days following date the Final
14 Approval Order is signed, Defendant shall transmit the GSA to the Settlement Administrator. If an
15 appeal is taken from the Final Approval Order, then Defendant shall transmit the GSA to the Settlement
16 Administrator within ten business days after the appeal is withdrawn or after an appellate decision
17 affirming the final approval decision becomes final. In addition, Defendant shall transmit to the
18 Settlement Administrator an amount equal to employer-side payroll taxes due on the wage component of
19 the Net Settlement Amount, within 45 calendar days from the date on which the Settlement
20 Administrator notifies Defendant of the calculated amount. This Settlement is non-reversionary and
21 under no circumstances will any part of the GSA revert to Defendant.

22 **5. Attorneys' Fees and Costs.**

23 Class Counsel shall request attorneys' fees up to 35% of the GSA for attorneys' fees; and up to
24 \$25,000 for reimbursement of litigation costs. Defendant agrees to not oppose Class Counsel's request
25 for attorneys' fees and costs in these amounts. Any unapproved amount of attorneys' fees and litigation
26 costs will be added to the NSA and be distributed to the Settlement Class Members.

1 **6. Enhancement Award.**

2 Class Counsel shall request an Enhancement Award of up to Seven Thousand Five Hundred
3 Dollars (\$7,500) for Plaintiff. Any unapproved amounts will be added to the NSA and be distributed to
4 the Settlement Class Members.

5 **7. PAGA Penalties**

6 Subject to Court approval, \$25,000 shall be attributed to Plaintiff's claims under PAGA. The
7 Settlement Administrator shall apportion and distribute payment as follows: (a) \$18,750 shall be paid to
8 the LWDA as its 75% share of the settlement of civil penalties for PAGA claims; and (b) \$6,250 shall
9 be added to the NSA and distributed to the Class Members who were employed during the PAGA
10 Period.

11 **8. Costs of Settlement Administration.**

12 The Parties have mutually agreed to the selection of Simpluris ("Settlement Administrator"), to
13 undertake the administration of the Settlement in this Action. The Parties estimate that the costs and
14 expenses of administration of the settlement will not exceed \$20,000.

15 **9. Calculation of the NSA and Distribution of Settlement Proceeds.**

16 **9.1** Approximately 19.19% of the NSA shall be allocated to the Reimbursement Class and shall
17 be paid pro rata based on the number of pay periods they worked as a Reimbursement Class Member
18 during the Reimbursement Class Period.

19 **9.2** Approximately 80.81% of the NSA shall be allocated to the Adjunct Class and shall be
20 calculated based on the number of pay periods they worked during the Adjunct Class Period as an
21 Adjunct Class Member in California.

22 **9.3** The 25% of the PAGA Penalties allocated to the Class shall be paid in equal amounts to
23 each Class Member who worked during the PAGA Period.

24 **9.3.1** If a Class Member timely and validly submits a Request for Exclusion, as set forth herein,
25 their share will return to the NSA and will be distributed to the remaining Settlement Class Members,
26 except Class Members who opt out from the Class will still receive their PAGA Payment share and will
27 release the Released PAGA Claims.
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1 **9.3.2** 15% of each Adjunct Settlement Payment will be allocated as wages and reported on an
2 IRS Form W-2; and the remaining 85% of each Settlement Payment will be allocated as penalties and
3 interest and reported on an IRS Form 1099.

4 **9.3.3** 100% of the Reimbursement Settlement payment shall be allocated as non-wage payments
5 and reported on an IRS Form 1099.

6 **9.3.4** 100% of the PAGA payments made to Class Members who opt out of the Settlement shall
7 be allocated as penalties and reported on an IRS Form 1099.

8 **9.4** Payments to Class Members pursuant to this Settlement Agreement will not be construed
9 as compensation for purposes of determining eligibility for or benefit calculations of any health and
10 welfare benefit plan, retirement benefit plan, vacation benefit plan, unemployment compensation,
11 including, without limitation, all plans, subject to Employee Retirement Income Security Act
12 (“ERISA”).

13 **9.5** Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged
14 signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of
15 omission or commission, the same is true for the Settlement Administrator.

16 **10. Notice Administration.**

17 **10.1.1** Within twenty-five calendar days of the order granting preliminary approval of the
18 Settlement (“Preliminary Approval Order”) Defendant shall provide the Settlement Administrator with
19 the following information (“Class Data List”):

20 (a) the names, employment identification number, last known addresses, last known telephone
21 numbers, and Social Security numbers of each Class Member; and

22 (b) dates of employment for each Class Member; and

23 (c) the number of pay periods worked by each Class Member during the relevant Class Period.

24 **10.1.2** Upon its receipt of the Class Data List, the Settlement Administrator shall access
25 the National Change of Address (“NCOA”) Database, and update the addresses contained therein.

26 **10.1.3** Within forty-five days of the Preliminary Approval Order, the Settlement
27 Administrator shall provide the Class Notice by bulk first class mail, forwarding requested, to the Class
28 Members at the addresses identified through the process described above.

1 **10.1.4** As to any Class Notices that are returned as undeliverable, or where the NCOA
2 Database indicates that the last known address of any Class Member is invalid or otherwise
3 undeliverable, the Settlement Administrator will perform a skip trace procedure and re-mail all returned,
4 undelivered mail within five calendar days of the date on which the Settlement Administrator is
5 informed that a Class Notice is undeliverable or otherwise invalid. Such Class Members whose Class
6 Notice was undeliverable, and is re-mailed, will have an additional 14 calendar days beyond the
7 Response Deadline to respond to the re-mailed Class Notice.

8 **11. Request for Exclusion.**

9 **11.1** Any Class Member may elect to opt out of the Settlement by submitting a written Request
10 for Exclusion to the Settlement Administrator, postmarked no later than the Response Deadline. The
11 Request for Exclusion must contain the following: full name, signature, address and last four digits of
12 their social security number; and a clear statement that he or she seeks to be excluded from the
13 Settlement. The Settlement Administrator shall immediately send all Requests for Exclusion to
14 Defendant's counsel and Class Counsel. A Class Member who fails to comply with the opt out
15 procedure set forth herein on or before the Response Deadline will not be excluded and will instead be
16 bound by all provisions of the Settlement Agreement and all orders issued pursuant thereto.

17 **11.2** Any Class Member who elects to opt out of the Class in the manner and within the time
18 limits specified above (1) will not have any rights under the Settlement Agreement; (2) will not be
19 entitled to receive any compensation under the Settlement Agreement; (3) will not have standing to
20 submit any objection to the Settlement Agreement; and (4) will not be bound by the Settlement
21 Agreement.

22 **11.3** Defendant shall retain the right to negate the Settlement in the event that more than five
23 percent (5%) of the Class Members opt out. Defendant must provide written notice to Class Counsel of
24 its withdrawal within fifteen days of the Response Deadline. If Defendant exercises this right, it shall be
25 solely responsible for the costs incurred for settlement administration up to the date of nullification.

26 **12. Objections.**

27 Any Class Member who does not request exclusion from the Settlement may object to the
28 Settlement Agreement by sending the Settlement Administrator, not later than the Response Deadline, a
written statement objecting to the Settlement. The written objection must contain: full name, address,

1 last four digits of their social security number, the case name and number of the Action, and a clear
2 statement of the basis for their objection. The Settlement Administrator shall immediately send all
3 objections to counsel for Defendant and Class Counsel.

4 Counsel for the Parties may file any responses to any objections at the time the Motion for Final
5 Approval is filed. Class Members may, prior to the Final Approval Hearing, withdraw their objections
6 or opt out requests in a writing to the Settlement Administrator, which may then be filed with the Court.

7 The Parties and their counsel will not seek to solicit or otherwise encourage any Class Member
8 to submit an opt out request or objection, nor encourage any Class Member to appeal from the final
9 judgment. Defendant shall not be responsible for the fees, costs, or expenses incurred by Class Counsel
10 or the Class Members arising from or related to any Class Members who submit objections or otherwise
11 purport to object to this Agreement or related to any appeals thereof.

12 **13. Resolution of Disputes.**

13 If any Class Member timely disputes the number of pay periods listed on their Class Notice or
14 the date(s) of issue, the dispute will be submitted to the Settlement Administrator, who will examine the
15 records and either verify the calculation or provide a corrected calculation. Disputes must be in writing
16 that is submitted to the Settlement Administrator, postmarked on or before the Response Deadline. The
17 dispute must contain: Class Member's full name, address, signature, and last four digits of their Social
18 Security number; and any facts supporting the Class Member's dispute, along with any supporting
19 materials confirming that the paychecks attributed to him or her are incorrect. The Settlement
20 Administrator's determination of disputes will be final and non-appealable.

21 **14. Payment Procedure.**

22 **14.1** Within 10 days of receipt of the GSA, the Settlement Administrator will distribute, subject
23 to approval by the Court: (a) Settlement Payments to Class Members; (b) attorneys' fees and costs to
24 Class Counsel; (c) Settlement Administration Costs to the Settlement Administrator; (d) Enhancement
25 Awards to the Class Representatives; and (e) the LWDA's share of the PAGA Penalties.

26 **14.2 Uncashed Checks:** Settlement Checks that are not cashed within ninety days from the date
27 of issuance by the Settlement Administrator will be voided and the funds will be donated and distributed
28 to Bet Tzedek as the *cy pres* in accordance with California Code of Civil Procedure § 384. The Parties
each represent that they do not have any significant affiliation or involvement with the proposed *cy pres*

1 recipient. Any tax forms issued by the Settlement Administrator to Class Members who do not cash
2 their settlement check in the required period will be withdrawn and voided by the Settlement
3 Administrator.

4 **15. No Tax Advice.**

5 The Parties are not giving any tax advice in connection with the settlement or any payments to be
6 made pursuant to this settlement including, but not limited to, within the meaning of United States
7 Treasury Circular 230 (31 CFR part 10, as amended). The Parties do not assume any liability for taxes,
8 fees, costs, or assessments resulting from any Settlement Class Members' failure to timely pay their
9 share of taxes, interest, fees, or penalties owed.

10 **16. Non-Materiality of Attorneys' Fees, Costs and Enhancement Awards.**

11 Any denial or reduction in amount by the Court of the application for attorneys' fees and
12 litigation costs, Enhancement Awards, and/or Settlement Administration Costs will in no way affect the
13 validity the remainder of this Settlement Agreement, or give rise to a right to abrogate this Settlement
14 Agreement.

15 **17. Release.**

16 **17.1 Adjunct Class Released Claims:** Upon the Effective Date, in exchange for the
17 consideration set forth herein, each member of the Adjunct Class shall be deemed to have released the
18 Released Parties from any and all claims that are alleged, or could reasonably have been alleged based
19 on the facts and claims asserted in the Complaint on their behalf and arising during the Adjunct Class
20 Period, including claims under Labor Code §§ 201, 202, 203, 226(a) and (e), 226.2, 226.7, 1174, 1194,
21 1194.2, 2698, 2699, and 2802; IWC Wage Order No. 4-2001, §§ 4 and 12, and the UCL based on the
22 Adjunct Class Released Claims; and claims for PAGA civil penalties based on the Adjunct Class
23 Released Claims and arising during the PAGA Period.

24 **17.2 Reimbursement Class Released Claims:** Upon the Effective Date, in exchange for the
25 consideration set forth herein, each member of the Reimbursement Class shall be deemed to have
26 released the Released Parties from any and all claims that are alleged, or reasonably could have been
27 alleged based on the facts and claims asserted in the Complaint on their behalf and arising during the
28 Reimbursement Class Period, including claims under Labor Code § 2802 and the UCL based on the
Labor Code § 2802 claim; and the claims for PAGA civil penalties based on the Reimbursement Class

Released Claims and arising during the PAGA Period.

17.3 Plaintiff's General Release: Upon the Effective Date, Plaintiff, on his own individual behalf, agrees to, in addition to a release of Released Claims, generally release the Released Parties from any and all causes of action, claims, rights, damages, punitive or statutory damages, penalties, liabilities, expenses, and losses and issues of any kind or nature whatsoever, that they may have had against the Released Parties. Plaintiff acknowledges that they may have claims that are presently unknown and that the release contained in this Settlement Agreement is intended to and will fully, finally, and forever discharge all claims against the Released Parties, whether now asserted or un-asserted, known or unknown, suspected or unsuspected, which now exist, or heretofore existed or may hereafter exist, which if known, might have affected her decision to enter into this release. The foregoing waiver includes, without limitation, an express waiver, to the fullest extent permitted by law, by Plaintiff of any and all rights under California Civil Code section 1542, which provides:

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

17.4 The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged.

17.5 Class Members who do not opt out of this Action and who accept payment pursuant to this Settlement Agreement shall, by virtue of such acceptance, agree never to institute any suit, complaint, proceeding, grievance, or action of any kind at law, in equity, or otherwise in any court of the United States, state, or municipality, or administrative agency, or any arbitration or other legal forum, against Defendant or the Released Parties for any claim included in the Adjunct Class and Reimbursement Class Released Claims, and, as to Plaintiff also in her General Release. The Class Members also agree that they will not join, participate in, or consent to opt in to any actions alleging that they are similarly situated to any other employee with respect to any such Adjunct Class and Reimbursement Class

Released Claims, or, as to Plaintiff, her General Release, and that each will elect to opt out of any such actions against Defendant or the Released Parties of which he or she is involuntarily made a member or party. If any of the Class Members are joined in any class or collective lawsuits for any Adjunct Class and Reimbursement Class Released Claims, they will receive no further compensation of any kind for such Adjunct Class and Reimbursement Class Released Claims and, as to Plaintiff, their General Release.

18. Application for Preliminary Approval Order.

18.1 After the Parties' execution of this Settlement Agreement, Plaintiff shall file a motion for preliminary approval of the Settlement, requesting a Preliminary Approval Order that contains the following provisions:

18.1.1 preliminarily approving the Settlement Agreement;

18.1.2 preliminarily approving and certifying the Class for settlement purposes only;

18.1.3 approving the form of the Class Notice, and finding that the proposed method of disseminating the Class Notice meet the requirements of due process and is the best notice practicable under the circumstances;

18.1.4 establishing the procedures and the deadline by which Class Members may assert objections to the Settlement, seek exclusion from the Settlement, and/or dispute their Settlement Shares; and

18.1.5 setting a date for the Final Approval Hearing.

19. Final Approval Order and Final Judgment.

19.1 If the Settlement is preliminarily approved by the Court, the Parties shall thereafter request that the Court enter an order granting final approval of the Settlement and judgment based thereon ("Final Approval Order and Judgment"), which includes the following provisions:

19.1.1 confirming certification of the Class for settlement purposes only;

19.1.2 finding that the dissemination of the Class Notice in the form and manner ordered by the Court was accomplished as directed, met the requirements of due process; and

19.1.3 finally approving the Settlement Agreement as fair, reasonable and adequate and directing consummation of the Settlement in accordance with its terms and provisions;

19.1.4 directing the Parties to implement the terms of the Settlement Agreement;

1 **19.1.5** releasing and discharging the Released Parties from any and all liability with
2 respect to the Released Claims;

3 **19.1.6** awarding reasonable attorneys' fees and litigation costs to Class Counsel;

4 **19.1.7** awarding Enhancement Award to Class Representative;

5 **19.1.8** awarding Settlement Administration Costs to the Settlement Administrator as
6 determined by the Court;

7 **19.1.9** approving the allocation of PAGA Penalties to the LWDA;

8 **19.1.10** entering final judgment on the Operative Complaint; and

9 **19.1.11** preserving continuing and exclusive jurisdiction over all matters related to the
10 administration and consummation of the terms of this Settlement and enforcement of the Judgment.

11 **20. Effect of Settlement Not Being Final.**

12 In the event that the Settlement does not become final, or is negated, then the Settlement
13 Agreement will become null and void and of no force and effect whatsoever, any class and
14 representative action, which were certified for settlement purposes only, shall be vacated, and shall be of
15 no force or effect whatsoever, and all negotiations, proceedings, and statements relating thereto will be
16 without prejudice as to the rights of any and all Parties hereto, none shall be admissible or construed as
17 an admission or concession of any kind by the Parties, in whole or part, and all Parties and their
18 respective predecessors and successors will be deemed to have reverted to their respective positions in
19 the Action as of the date and time immediately prior to the execution of this Settlement Agreement.

20 **21. Escalator Clause.**

21 If the total number of Adjunct Class Members exceeds 665 by more than 10% (i.e. more than
22 732), then the GSA attributable to the Adjunct Class Members (\$800,019) shall be increased by the
23 same percentage by which the number of Class Members exceeds 732.

24 If the total number of Reimbursement Class exceeds 700 by more than 10% (i.e. more than 770),
25 then the GSA attributable to the Reimbursement Class Members (\$189,981) shall be increased by the
26 same percentage by which the number of Class Members exceeds 770.

27 **22. No Admissions.**

28 The Parties understand and agree that this Settlement Agreement is the result of a good faith
compromise settlement of disputed claims, and no part of this Settlement Agreement, or the negotiations

1 leading thereto, or any document filed in support thereof, should be construed as an admission of any
2 wrongdoing by Defendant or the Released Parties.

3 **23. Avoidance of Undue Publicity.**

4 The Parties and their counsel agree that they will not issue any press releases, communicate to
5 the press, media or to the public, through social media or otherwise, the settlement terms or amount
6 unless and until the court has granted Final Approval. Class Counsel will take all steps necessary to
7 ensure Plaintiff is aware of, and will encourage them to adhere to, the restriction against any media
8 comment on the settlement and its terms. Class Counsel further agrees not to use the settlement of the
9 Action or any of its terms for any marketing or promotional purposes. Nothing herein will restrict
10 Class Counsel from including publicly available information regarding this settlement in future
11 judicial submissions regarding Class Counsel's qualifications and experience.

12 **24. Non-Disparagement**

13 Released Parties agree that all inquiries about Plaintiff shall be referred to Human Resources, who
14 will confirm the Plaintiff's dates of employment and position held. No other information concerning
15 Plaintiff's work history will be provided by Human Resources without authorization from Plaintiff.

16 **25. Construction.**

17 This Settlement Agreement was entered into after substantial good faith, arm's-length
18 negotiations between the Parties. This Settlement Agreement has been entered into without any
19 coercion and under no duress. The Parties acknowledge and agree that all Parties had an equal hand in
20 drafting this Settlement Agreement so that it will not be deemed to have been prepared or drafted by one
21 party or another.

22 **26. Due Authority of Attorneys.**

23 Each of the attorneys executing this Settlement Agreement on behalf of one or more Parties
24 hereto warrants and represents that he or she has been duly authorized and empowered to execute this
25 Settlement Agreement on behalf of each such respective Party and to bind them to the terms hereof. The
26 parties also warrant that this Agreement is entered into knowingly and willingly and there is no fraud,
27 duress, or undue influence.
28

1 **27. Entire Agreement.**

2 This Settlement Agreement (including Exhibits hereto) sets forth the entire agreement of the
3 Parties with respect to its subject matter and supersedes any and all other prior agreements and all
4 negotiations leading up to the execution of this Settlement Agreement, whether oral or written,
5 regarding the subjects covered herein. The Parties acknowledge that no representations, inducements,
6 warranties, promises, or statements relating to the subjects covered herein, oral or otherwise, have been
7 made by any of the Parties that are not embodied or incorporated by reference herein. Except as
8 otherwise set forth in this Agreement, any notice, order, judgment, or other exhibit that requires
9 approval of the Court must be approved without material alteration that substantially changes or
10 increases the cost of compliance with this Settlement Agreement in order for this Settlement Agreement
11 to become effective. Before invoking this provision to challenge the effectiveness of this Settlement
12 Agreement, the invoking party shall consult with, and if necessary mediate in good faith with, the other
13 party in an effort to resolve any such challenge.

14 **28. Modification or Amendment.**

15 This Settlement Agreement may not be modified or amended except in a writing signed by all
16 signatories hereto or their attorneys or their successors in interest.

17 **29. Successors.**

18 This Settlement Agreement will be binding upon and inure to the benefit of the Parties hereto
19 and their respective heirs, executors, administrators, successors and assigns, and upon any corporation,
20 partnership or other entity into or with which any Party hereto may merge, combine, or consolidate.

21 **30. Counterparts.**

22 This Settlement Agreement may be executed in counterparts, each of which will be deemed an
23 original, and all of which together will constitute one and the same instrument.

24 **31. Waivers.**

25 The waiver by any Party of any breach of this Settlement Agreement will not be deemed or
26 construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this
27 Settlement Agreement.
28

32. Governing Law.

This Settlement Agreement will be governed by and construed, enforced, and administered in accordance with the internal laws of the State of California.

33. Headings.

The headings contained in this Settlement Agreement are for convenience and reference purposes only, and will not be given weight in its construction.

34. Notices.

Any notices, requests, demands, or other communications required or permitted to be given pursuant to this Settlement Agreement, other than the contemplated Class Notice to the Class Members, must be in writing and mailed as follows:

34.1 To Class Counsel to the attention of Julian Hammond, Esq., HammondLaw, P.C., 4450 NW 126th Avenue, Suite 101, Coral Springs FL 33065,; Telephone: (310) 601-6766.

34.2 To Defendant, to the attention of Jon C. McNutt, Esq., Musick, Peeler & Garrett LLP, 624 S. Grand Ave., Suite 200, Los Angeles, California 90017; Telephone: (213) 629-7674.

IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on behalf of the Parties, as follows:

Plaintiff and Proposed Class Representative

Dated: 5/4/2022, 2022 By: 
Alvalyn Lundgren

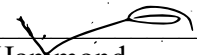
Otis College of Art and Design

Dated: _____, 2022 By: _____
Name: Jiseon Lee Isbara
Title: Provost

On behalf of Defendant

1 ***APPROVED AS TO FORM:***

2 **Counsel for Plaintiff and**
3 **Proposed Class Counsel**

4 Dated: May 4, 2022 By: 
5 Julian Hammond
6 Hammond Law, P.C.

7 **Counsel for Defendant**

8
9 Dated: _____, 2022 By: _____
10 Jon C. McNutt
11 Musick, Peeler & Garrett LLP
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IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on behalf of the Parties, as follows:

Plaintiff and Proposed Class Representative

Dated: _____, 2022 By: _____
Alvalyn Lundgren

Otis College of Art and Design

Dated: May 9, 2022 By: 
Name: Jiseon Lee Isbara
Title: Provost

On behalf of Defendant

APPROVED AS TO FORM:

**Counsel for Plaintiff and
Proposed Class Counsel**

Dated: _____, 2022 By: _____
Julian Hammond
Hammond Law, P.C.

Counsel for Defendant

Dated: May 10, 2022

By: 
Jon C. McNutt
Musick, Peeler & Garrett LLP

EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL APPROVAL

Lundgren v Otis College of Arts and Design
(Los Angeles County Superior Court, Case No. 22STCV14633)

As a current or former Part-time Faculty Member of Otis College of Arts and Design in California, or a current or former employee who worked remotely for Otis College of Arts and Design in California, you are entitled to receive money from a class action settlement.

Please read this Notice carefully. This Notice relates to a proposed settlement of class action litigation. If you are a Class Member, it contains important information about your right to receive a payment from the Settlement fund.

You have received this Notice of Class Action Settlement because Otis College of Arts and Design (“Defendant” or “Otis”) records show you are an “Adjunct Class Member” or a “Reimbursement Class Member” and therefore entitled to a payment from this class action Settlement. “Adjunct Class Member” refers to all non-exempt part-time faculty and instructors employed by Defendant in California from August 1, 2017 through **August 3, 2022 / or the date of preliminary approval** (the “Adjunct Class Period”). “Reimbursement Class Member” refers to all individuals other than Adjunct Class Members who were required to work from home during the COVID-19 pandemic and related declared state of emergency and allegedly did not receive proper expense reimbursement between March 4, 2020 and **August 3, 2022 / or the date of preliminary approval** (“Reimbursement Class Period”).

- The settlement resolves a class-action lawsuit, *Lundgren v Otis College of Art and Design* (the “Lawsuit”), which alleges that Defendant: (1) failed to pay Adjunct Class Members for all hours worked, (2) failed to provide Adjunct Class Members legally-compliant rest breaks under California law, (3) failed to pay Adjunct Class Members all wages owed upon discharge from employment, (4) failed to furnish Adjunct Class Members accurate itemized wage statements, and (5) failed to reimburse Adjunct Class Members for business expenses. The Lawsuit also alleges that Defendant failed to reimburse Reimbursement Class Members for business expenses related to working from home during the Covid-19 pandemic.
- On [REDACTED], the Los Angeles County Superior Court granted preliminary approval of this class action Settlement and ordered that all Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Lawsuit. Otis vigorously denies the claims in the Lawsuit and contends that it fully complied with all applicable laws.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment, and give up your legal rights to pursue claims released by the settlement of the Lawsuit.
OPT OUT OF THE SETTLEMENT	Exclude yourself from the Settlement, get no payment other than your share of PAGA civil penalties as described below, and retain your legal rights to pursue claims that would otherwise be released by the settlement of the Lawsuit.
OBJECT TO THE SETTLEMENT	If you do not opt out, you may write to the Settlement Administrator about why you object to the settlement and they will forward your concerns to counsel which will then be

Questions? Contact the Settlement Claims Administrator toll free at **XXX-XXX-XXXX**

	provided to the Court. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. You or your attorney may also address the Court during the Final Approval hearing scheduled for [DATE AND TIME] in Dept. 14 the Spring St. Courthouse of Los Angeles County Superior Court.
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Why Am I Receiving This Notice?

You were sent this Class Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options before the Court decides whether to finally approve the settlement. If the Court approves the settlement and then any objections and appeals are resolved, a "Settlement Administrator" appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

What Is This Case About?

Alvalyn Lundgren worked as a part-time instructor for Otis in California. She is the "Plaintiff" in this case and is suing on behalf of herself and Adjunct Class Members for Otis' alleged failure to pay all wages due for all hours worked, failure to provide Adjunct Class Members with legally-compliant rest breaks, failure to pay all wages owed upon separation from employment, failure to furnish timely and accurate wage statements, and failure to reimburse necessary business expenses in connection with teaching courses online. Plaintiff also alleges that Otis failed to reimburse Reimbursement Class Members for their necessary business expenses in connection with working remotely during the Covid-19 pandemic.

Otis denies all of the allegations made by Plaintiff and denies that it violated any law. The Court has made no ruling on the merits of Plaintiff's claims. The Court has only preliminarily approved a Class Action Settlement Agreement. The Court will decide whether to give final approval to the Settlement at the Final Fairness and Approval Hearing.

Summary of the Settlement Terms

Plaintiff and Otis have agreed to settle this case on behalf of the Class for the Gross Settlement Amount of \$990,000. The Gross Settlement includes: (1) Administration Costs up to \$20,000; (2) a service payment of up to \$7,500 to Plaintiff for his time and efforts in pursuing this case and in exchange for a general release of claims against Otis; (3) fees of up to 35% of the Settlement Amount and up to \$25,000 in litigation costs to Class Counsel; and (4) payment allocated to PAGA penalties in the amount of \$25,000 (with \$18,750 to be paid to the Labor and Workforce Development Agency ("LWDA") and \$6,250 paid equally to Class Members who worked during the PAGA Period (defined as October 8, 2020 to **August 3, 2022 / or the date of preliminary approval**). After deducting these sums, a total of approximately \$587,500 will be available for distribution to Class Members ("Net Settlement Amount"). In addition to the Gross Settlement Amount, Defendant will bear all employer-side payroll tax payments due and payable to federal and state tax authorities as a result of this Settlement.

Distribution to Class Members

The Net Settlement Amount will be distributed as follows: Approximately **19.19%** of the NSA shall be allocated to the Reimbursement Class and shall be paid *pro-rata* based on the number of pay periods worked by a Reimbursement Class Member during the Reimbursement Class Period in proportion to the weeks worked by all

Questions? Contact the Settlement Claims Administrator toll free at **XXX-XXX-XXXX**

Reimbursement Class Members. The remainder of the Net Settlement Amount (approximately 80.81%) shall be paid to Adjunct Class Members pro-rata based on the number of pay periods that they worked as a part-time, during the Adjunct Class Period, in proportion to all such pay periods worked by all Adjunct Class Members.

In addition, the \$6,250 in PAGA penalties shall be paid equally to Class Members who worked for Otis in California during the PAGA Period. You will receive this payment and will release your Released PAGA Claims (defined below) regardless of whether or not you opt-out of the Settlement.

Your Estimated Settlement Award

Defendant's records show that you [ARE/ ARE NOT] a member of the {Reimbursement} Class and worked a total of: << PAY PERIODS >> during the Reimbursement Class Period. Your share of the Settlement allocated to the Reimbursement Class is [XXX.]

Defendant's records also show that you [ARE/ ARE NOT] a member of the {Adjunct} Class and worked a total of: << PAY PERIODS >> during the Adjunct Class Period. Your share of the Settlement allocated to the Adjunct Class is [XXX.]

Finally, Defendant's records show that [ARE/ ARE NOT] a member of the PAGA Class. Your share of the PAGA Payment is [\$6,250 /PAGA Class Size]

The actual amount you may receive may be different and will depend on a number of factors. If you believe that the number of pay periods listed above is incorrect and wish to dispute it, you must mail or e-mail a dispute to the Settlement Administrator no later than RESPONSE DEADLINE. Please include any documentation you have that you contend supports your dispute.

Tax Reporting

For tax reporting purposes, the payments monies paid to the Adjunct Class will be allotted 15% to wages and 85% to penalties and interest. Payout to the Reimbursement Class will be allotted 100% to penalties; and PAGA payments will be allotted 100% to penalties.

If any government agency disagrees with this allocation, you might be responsible for additional tax, interest and penalties with respect to your payment. You should consult with an accountant or other tax professional with any questions. Neither the Parties nor the Court is providing you with tax advice.

Claims That You Are Releasing Under the Settlement

Adjunct Class Released Claims: If finally approved by the Court, each Adjunct Class Member who does not request exclusion from the Settlement will be bound by all of the terms of the Settlement, and will release Otis from any and all claims that are alleged, or could reasonably have been alleged based on the facts and claims asserted in the Complaint on their behalf and arising during the Adjunct Class Period, including claims under Labor Code §§ 201, 202, 203, 226(a) and (e), 226.2, 226.7, 1194, 1174, and 2802; IWC Wage Order No. 4-2001, §§ 4, 12, and UCL claims based on the Adjunct Class Released Claims. Adjunct Class Members who worked during the PAGA Period will release their claims for PAGA civil penalties based on the Adjunct Class Released Claims and arising during the PAGA Period whether or not they opt out of the Settlement.

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

Reimbursement Class Released Claims: If finally approved by the Court, each Reimbursement Class Member who does not request exclusion from the Settlement will release all claims that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the Complaint on their behalf and arising during the Reimbursement Class Period, including claims under Labor Code § 2802 and the UCL claims based on the Labor Code § 2802 claim. Reimbursement Class Members who worked during the PAGA Period will release their claims for PAGA civil penalties based on the Reimbursement Class Released Claims and arising during the PAGA Period.

Your Options Under the Settlement

Option 1 – Do Nothing and Receive Your Payment

If you do not opt out, you are automatically entitled to your payment because you are a Class Member. If you do not dispute your pay periods calculation and do not opt out of the settlement, you will be bound by the settlement and receive a settlement payment. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment set forth above.**

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the Settlement, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must expressly and clearly indicate that you do not want to participate in the Settlement, and you desire to be excluded from the Settlement. The written request for exclusion must include your name, address, telephone number, case name and number, and last four digits of your Social Security Number. Sign, date, and mail or e-mail your written request for exclusion to:

Simpluris, Inc.

The written request to be excluded from the Settlement must be postmarked or received by the Administrator not later than **[RESPONSE DEADLINE]**. If you exclude yourself from the Settlement then you will get no payment, other than your share of PAGA penalties, and retain your legal rights to pursue claims that would otherwise be released by the settlement of the Lawsuit, other than your claim for PAGA civil penalties.

Option 3 – File an Objection to the Settlement

If you wish to object to the Settlement you may file an objection in writing stating why you object to the Settlement. Your objection must provide your full name, address and telephone number, case name and number, the last four digits of your Social Security Number, the case number and name, and your reasons why you think the Court should not approve the settlement. Your objection must be mailed or e-mailed to the Administrator no later than **[RESPONSE DEADLINE]**. Please note that you cannot both object to the Settlement and exclude yourself. If the Court overrules your objection, you will be bound by the settlement and will receive your Settlement Share.

Final Fairness Hearing

You may, if you wish, also appear at the Final Fairness and Approval Hearing set for [REDACTED] at [REDACTED].m. in Dept 14 of the Los Angeles County Superior Court, located at Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA, 90012, and discuss your objections with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the Hearing at your own expense.

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

You can schedule a remote appearance up to 2 hours prior to the hearing via LACourtConnect by visiting the Court's website: <https://my.lacourt.org/laccwelcome> and following the instructions. There is a \$15 appearance fee. Once you schedule your appearance you will be emailed the dial-in information.

The date and location of the Fairness Hearing may change. If you are interested in attending the Fairness Hearing, you should confirm the date and location by contacting Class Counsel or the settlement website [add].

Additional Information

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may visit www._____.com, call the Settlement Administrator at [PHONE NUMBER], or Class Counsel at:

HAMMONDLAW, P.C.
Julian Hammond (SBN 268489)
jhammond@hammondlawpc.com
Polina Brandler (SBN 269086)
pbrandler@hammondlawpc.com
Ari Cherniak (SBN 290071)
acherniak@hammondlawpc.com
1201 Pacific Ave Suite 600
Tacoma WA 98402
Tel: (310) 601-6766
Fax: (310) 295-2385

You may also refer to the pleadings, the Settlement Agreement, and other papers filed in this case, which may be inspected at the Office of the Clerk of Los Angeles County Superior Court, located at 111 N. Hill Street, Rm 105E, Los Angeles, CA 90012, during regular business hours of each court day.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator or Class Counsel.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, OTIS, OR OTIS' ATTORNEYS WITH INQUIRIES.

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX