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**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

ERIKA COLLAZO, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

T.O.P. MARKETING GROUP, INC., a New
York Corporation; and DOES 1 to 100,
inclusive,

Defendants.

Case No.: 34-2022-00314092

**JOINT STIPULATION REGARDING CLASS
ACTION AND PAGA SETTLEMENT AND
RELEASE**

Filed: January 19, 2022
FAC Filed: April 27, 2022
Trial Date: None Set

1 This Joint Stipulation Regarding Class Action and PAGA Settlement and Release is made and
2 entered into between the Plaintiff Erika Collazo, on behalf of herself, the Labor and Workforce
3 Development Agency, Class Members, and Aggrieved Employees, and Defendant T.O.P. Marketing
4 Group, Inc., Michael D’Adamo, and Kevin D’Adamo. This Agreement is subject to the terms and
5 conditions set forth below and the approval of the Court.

6 **1. DEFINITIONS**

7 The following terms, when used in this Agreement, have the following meanings:

8 1.1 “Action” means the above stated lawsuit, *Collazo v. T.O.P. Marketing Group, Inc.*,
9 Sacramento County Superior Court, Case No. 34-2022-00314092, filed January 19, 2022.

10 1.2 “Aggrieved Employee(s)” means all non-exempt employees who have, or continue to, work
11 for T.O.P. Marketing Group, Inc. in California during the PAGA Claim Period, including but not limited
12 to all customer service associates, customer service reps, customer service assistants, customer service
13 specialists, warehouse workers, canvassers, event marketers, distribution specialists, sales representatives,
14 or other job title performing similar job duties, whether as an employee or independent contractor.

15 1.3 “Agreement” or “Settlement” or “Settlement Agreement” means this Joint Stipulation
16 Regarding Class Action and PAGA Settlement and Release.

17 1.4 “Class Counsel” means Galen T. Shimoda, Justin P. Rodriguez and Brittany V. Berzin of
18 Shimoda & Rodriguez Law, PC.

19 1.5 “Class Member(s)” means all non-exempt employees who have, or continue to, work for
20 T.O.P. Marketing Group, Inc. in California during the Class Period, including but not limited to all
21 customer service associates, customer service reps, customer service assistants, customer service
22 specialists, warehouse workers, canvassers, event marketers, distribution specialists, sales representatives,
23 or other job title performing similar job duties, whether as an employee or independent contractor, with the
24 exception of any individuals who only performed sales of Lifeline goods or services through T.O.P.
25 Marketing Group, Inc. for SafetyNet Wireless (the dba for Amerimex Communications Corp.) between
26 January 19, 2018 and February 27, 2019, and who were included in the information exchanged between
27 the parties during the litigation in *Gregory v. Amerimex Communications Corp., et al.*, Case No.
28 BC670901.

1 1.6 “Class Period” means January 19, 2018 up to either (1) the Preliminary Approval Date, or
2 (2) November 26, 2022, whichever is earlier.

3 1.7 “Class Representative” means Plaintiff Erika Collazo.

4 1.8 “Complaint” means the operative Complaint on file in the Action with the Court.

5 1.9 “Court” means the Sacramento County Superior Court.

6 1.10 “Defendant” means T.O.P. Marketing Group, Inc.

7 1.11 “Defendant’s Counsel” means CDF Labor Law LLP.

8 1.12 “Enhancement Payment” means the amount approved by the Court to be paid to the Class
9 Representative in recognition of the time and effort expended on behalf of Class Members for the benefit
10 of Class Members, which is in addition to any Individual Settlement Amount paid to the Class
11 Representative as a Participating Class Member.

12 1.13 “Effective Date” means the Final Approval Date unless there is a timely objection lodged
13 that has not later been withdrawn, in which case the Effective Date will be either (a) the 60th calendar day
14 after a signed order approving this settlement has been filed provided no appellate proceeding having been
15 filed; or (b) seventh (7th) calendar day after any appellate proceeding opposing the settlement has been
16 finally dismissed with no material change to the terms of this settlement and there is no right to pursue
17 further remedies or relief, whichever is later.

18 1.14 “Final Approval Date” means the date a signed order granting final approval of this
19 Agreement is filed with the Court.

20 1.15 “Gross Settlement Amount” is the sum of Eight Hundred Forty-Two Thousand Five
21 Hundred Dollars and Zero Cents (\$842,500).

22 1.16 “Individual Settlement Amount” means an individual Class Member’s and Aggrieved
23 Employee’s allocation of the Net Settlement Amount and PAGA Payment respectively, as defined in
24 Sections 1.19, 1.23, 5.5, and 5.8.

25 1.17 “LWDA” means the California Labor and Workforce Development Agency.

26 1.18 “Net Settlement Amount” is the portion of the Gross Settlement Amount available for
27 distribution to Class Members, as described in this Agreement, after deduction of Class Counsel’s
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attorneys' fees and litigation costs, Settlement Administrator Costs, the PAGA Payment, and Enhancement Payment to the Class Representative.

1.19 "Notice of Settlement" means the document substantially in the form attached hereto as Exhibit 1.

1.20 "Notice Period" means sixty (60) calendar days from the initial mailing of the Notice of Settlement to Class Members and Aggrieved Employees.

1.21 "PAGA" means Private Attorneys General Act.

1.22 "PAGA Payment" means the amount allocated from the Gross Settlement Amount towards resolving claims under the Private Attorneys General Act of 2004, California Labor Code §§ 2698 *et seq.*

1.23 "PAGA Claim Period" means January 14, 2021 up to either (1) to the Preliminary Approval Date or (2) November 26, 2022, whichever is earlier.

1.24 "Parties" mean Defendant, Kevin D'Adamo, Michael D'Adamo and Plaintiff.

1.25 "Participating Class Member" means any and all Class Members who have not made any timely request to opt-out of the Agreement.

1.26 "Preliminary Approval Date" means the date a signed order granting preliminary approval of this Agreement is filed with the Court.

1.27 "QSF" means a Qualified Settlement Fund set up by the Settlement Administrator for the benefit of the Participating Class Members and/or Aggrieved Employees and from which the payments under this Agreement shall be made. Any amounts Defendant, Michael D'Adamo and Kevin D'Adamo have agreed to pay under this Agreement shall remain the property of Defendant, Michael D'Adamo and Kevin D'Adamo until the payments required under the Agreement are made.

1.28 "Qualifying Pay Periods" are pay periods worked by Class Members and/or Aggrieved Employees during the Class Period and/or PAGA Claim Period, respectively, in California. The calculation of a Class Member's and/or Aggrieved Employee's pay periods and a determination as to whether a Class Member and/or Aggrieved Employee was actively employed in California in a particular pay period shall be construed from Defendant's records.

1.29 "Released Class Claims" means any and all class claims that are alleged in the Complaint, and any additional wage and hour claims that could have been brought based on the facts alleged in the

1 Complaint, through the Class Period. This release excludes the release of claims not permitted by law.
2 The Released Class Claims exclude claims for workers' compensation or unemployment insurance
3 benefits. This release will cover all Class Members who do not opt out.

4 1.30 "Released PAGA Claims" means any and all claims that were brought under the Private
5 Attorneys General Act, Labor Code §§ 2698 *et seq.*, contained in the Complaint and any additional wage
6 and hour PAGA claims that could have been brought based on the facts alleged in the Complaint during
7 the PAGA Claim Period. Aggrieved Employees cannot opt out of this waiver of claims.

8 1.31 "Released Parties" means Defendant, Michael D'Adamo and Kevin D'Adamo, as well as
9 Defendant's officers, shareholders, directors, agents, employees, attorneys, and insurers.

10 1.32 "Settlement Administrator" means and refers to ILYM Group, Inc., the third-party entity
11 that will administer the Agreement as outlined in Sections 4 and 7, or any other third-party administrator
12 agreed to by the Parties and approved by the Court for the purposes of administering this Agreement. The
13 Parties each represent that they do not have any financial interest in the Settlement Administrator.

14 1.33 "Settlement Administrator Costs" means the fees and expenses reasonably incurred by the
15 Settlement Administrator as a result of the procedures and processes expressly required by this Agreement,
16 and shall include all costs of administering the Agreement, including, but not limited to, all tax document
17 preparation, custodial fees, and accounting fees incurred by the Settlement Administrator; all costs and fees
18 associated with preparing, issuing and mailing any and all notices and other correspondence to Class
19 Members and/or Aggrieved Employees; all costs and fees associated with communicating with Class
20 Members and/or Aggrieved Employees, Class Counsel, and Defendant's Counsel; all costs and fees
21 associated with computing, processing, reviewing, and paying the Individual Settlement Amounts, and
22 resolving disputes; all costs and fees associated with calculating tax withholdings and payroll taxes, if any,
23 making related payment to federal and state tax authorities, if any, and issuing tax forms relating to
24 payments made under the Agreement; all costs and fees associated with preparing any tax returns and any
25 other filings required by any governmental taxing authority or agency; all costs and fees associated with
26 preparing any other notices, reports, or filings to be prepared in the course of administering Individual
27 Settlement Amounts; and any other costs and fees incurred and/or charged by the Settlement Administrator
28 in connection with the execution of its duties under this Agreement.

1 **2. DESCRIPTION OF THE LITIGATION**

2 2.1 On or about January 14, 2022, Plaintiff sent notice to the LWDA to exhaust administrative
3 remedies under the PAGA for failure to pay overtime wages, failure to pay minimum wages, failure to
4 provide meal periods or pay premiums in lieu thereof, failure to provide rest periods or pay premiums in
5 lieu thereof, failure to provide accurate wage statements, failure to pay final wages, failure to pay
6 reimbursements for expenses, provisions regulating hours and days of work in the Industrial Welfare
7 Commission Order, failure to provide paid sick leave, willful misclassification as independent contractors,
8 and failure to pay contract wages and unlawful deductions. The LWDA did not respond to the notice
9 within the statutorily required time frame and, as such, Plaintiff became authorized to act as a Private
10 Attorneys General on all alleged PAGA claims.

11 2.2 On or about January 19, 2022, Plaintiff filed a class action Complaint in Sacramento County
12 Superior Court on behalf of herself and Class Members alleging claims for failure to pay overtime wages,
13 failure to pay minimum wages, meal period violations, rest period violations, wage statement violations,
14 waiting time penalties, failure to reimburse expenses, and unfair competition. Plaintiff filed a First
15 Amended Complaint on approximately April 27, 2022 to add a PAGA cause of action based on the
16 violations alleged in the January 14, 2022 notice to the LWDA on behalf of herself and Aggrieved
17 Employees.

18 2.3 Through informal discovery, Defendant and Defendant's Counsel provided Class Counsel
19 with copies of all applicable versions of its policies and procedures, independent contractor agreements,
20 information on Class Members and Aggrieved Employees including, but not limited to, Class Members'
21 workweeks, the total number of Class Members, the total number of Aggrieved Employees, and payroll
22 records for a sample of Class Members and Aggrieved Employees.

23 2.4 On September 27, 2022, the Parties participated in a lengthy mediation with private
24 mediator Brandon McKelvey, Esq. At the conclusion of the mediation, the Parties were able to come to a
25 resolution. At all times, the Parties' settlement negotiations have been non-collusive, adversarial, and at
26 arm's length.

27 2.5 Discussions between Plaintiff and Class Counsel, between counsel for the Parties, document
28 productions, extensive legal analysis, the provision of information by Defendant to Plaintiff and the

1 detailed analysis of the records, including expert analysis, have permitted each side to assess the relative
2 merits of the claims and the defenses to those claims.

3 2.6 In the Action, Plaintiff contends that Defendant violated California law by 1) misclassifying
4 class members as independent contractors; 2) failing to maintain accurate time records; 3) failing to pay
5 class members for all regular and overtime hours worked; 4) failing to adopt meal and rest period policies;
6 5) failing to reimburse class members for phone and vehicle expenses; and 6) failing to provide all paid
7 sick time. Plaintiff's waiting time, wage statement, and PAGA claims are derivative. Defendant has denied
8 each of Plaintiff's claims and Defendant has denied that this Action is appropriate for class certification
9 for anything other than settlement purposes. The agreed upon Gross Settlement Amount was reached after
10 evaluating the Parties' theories of potential exposure for the underlying claims and the class data supporting
11 these claims. The Parties, with the assistance of the mediator, also assessed appropriate discounts to the
12 potential liability based on Defendant's factual and legal contentions and defenses.

13 2.7 The Parties agree that the above-described investigation and evaluation, as well as discovery
14 and the information exchanged to date, are more than sufficient to assess the merits of the respective
15 Parties' positions and to compromise the issues on a fair and equitable basis. Plaintiff, Class Counsel,
16 Defendant, and Defendant's Counsel have concluded that it is desirable that the Action be settled in a
17 manner and upon such terms and conditions set forth herein in order to avoid further expense,
18 inconvenience and distraction of further legal proceedings, and the risk of an adverse outcome each of the
19 Parties potentially face in the Action. Therefore, the Parties desire to resolve the claims in the Action.
20 Plaintiff, Class Counsel, Defendant, and Defendant's Counsel are of the opinion that the Agreement for the
21 consideration and terms set forth herein is fair, reasonable, and adequate in light of all known facts and
22 circumstances.

23 **3. THE CONDITIONAL NATURE OF THIS AGREEMENT**

24 3.1 This Agreement and all associated exhibits or attachments are made for the sole purpose of
25 settling the Action. This Agreement and the settlement it evidences is made in compromise of disputed
26 claims. Because the Action was pled as a class action, this Agreement must receive preliminary and final
27 approval by the Court. Accordingly, the Parties enter into this Agreement and associated settlement on a
28 conditional basis. If the Effective Date does not occur, or if the Court's approval of the settlement is

1 reversed or materially modified on appellate review, this Agreement shall be deemed null and void; it shall
2 be of no force or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and
3 the negotiation, terms and entry of the Agreement shall remain subject to the provisions of California
4 Evidence Code Sections 1119 and 1152, Federal Rule of Evidence 408, and any other analogous rules of
5 evidence that may be applicable.

6 3.2 Defendant has denied all claims as to liability, damages, liquidated damages, penalties,
7 interest, fees, restitution, injunctive relief and all other forms of relief asserted in the Action. Defendant
8 has agreed to resolve the Action via this Agreement, but to the extent this Agreement is deemed void or
9 the Effective Date does not occur, Defendant does not waive, but rather expressly reserve, all rights to
10 challenge all such claims and allegations in the Action upon all procedural and factual grounds, including,
11 without limitation, the ability to challenge class or collective treatment on any grounds, as well as to assert
12 any and all other potential defenses or privileges.

13 **4. SCOPE OF THE CLASS**

14 4.1 The scope of the class of individuals encompassed under the Agreement and subject to all
15 obligations and duties required under the Agreement, shall include all Class Members as defined in Section
16 1.5 and all Aggrieved Employees as defined in Section 1.2. However, it shall not include any Class
17 Members who submit valid and timely requests to opt-out of the Agreement and settlement, as set forth in
18 Section 7.5.1.

19 4.2 Only Participating Class Members and Aggrieved Employees are entitled to recover under
20 this Agreement.

21 4.3 Any person who believes that he or she is a Class Member or Aggrieved Employee and
22 wishes to participate in the Agreement, but did not receive a Notice of Settlement because his or her name
23 did not appear on the class list provided to the Settlement Administrator prior to mailing, may submit a
24 data request to the Settlement Administrator. The data request must contain all of the following
25 information: (a) the full name and, if applicable, Social Security Number of the individual making the
26 request; (b) the name used by such employee as of the time his or her employment or work with Defendant
27 ended; (c) the individual's dates of employment, or when they worked, with Defendant; and (d) a return
28 address to which a response may be sent. Every data request must be postmarked on or before the

1 conclusion of the Notice Period or otherwise submitted to the Settlement Administrator such that it is
2 received before the conclusion of the Notice Period. Upon receipt of any data requests, the Settlement
3 Administrator shall promptly (in no event more than two business days) transmit the data requests to
4 Defendant's Counsel and request that Defendant review its records.

5 4.4 If Defendant agrees that the person listed in a data request is a Class Member and/or
6 Aggrieved Employee, the Settlement Administrator shall promptly mail a Notice of Settlement to the
7 person who submitted the data request, at the address designated for that purpose in the data request. All
8 provisions of this Agreement relating to the Notice of Settlement shall apply to Notice of Settlements sent
9 in response to data requests, and any person who submits a data request and is sent a Notice of Settlement
10 in response shall be treated by the Settlement Administrator as a Class Member and/or Aggrieved
11 Employee for all other purposes.

12 4.5 If Defendant does not agree that the person listed in a data request is a Class Member and/or
13 Aggrieved Employee, Defendant's Counsel and Class Counsel shall attempt to resolve any such dispute in
14 good faith within seven (7) calendar days of Class Counsel being advised in writing of the data request
15 dispute. Defendant's records shall control unless the individual submitting the data request provides
16 persuasive evidence to doubt the accuracy of those records. Each data request dispute that Defendant's
17 Counsel and Class Counsel cannot timely resolve shall be resolved by the Settlement Administrator. The
18 Settlement Administrator must accept and weigh all the evidence provided in a good faith attempt to resolve
19 the dispute. The Settlement Administrator must resolve any dispute submitted to it within seven (7)
20 calendar days after Defendant's Counsel and Class Counsel submit the dispute to the Settlement
21 Administrator. The decision by the Settlement Administrator shall be final as between the parties, subject
22 to Court review.

23 **5. TERMS OF THE SETTLEMENT**

24 The Parties agree as follows:

25 5.1 Gross Settlement Amount: In consideration and exchange for the releases described in
26 Section 6, Defendant, Michael D'Adamo, and Kevin D'Adamo shall pay the Gross Settlement Amount
27 (\$842,500). Funding of the Gross Settlement Amount shall occur within 21 calendar days after the
28 Effective Date to be held in trust in a QSF by the Settlement Administrator. The Gross Settlement Amount

1 includes payments to Participating Class Members, Aggrieved Employees, all attorneys' fees, costs and
2 litigation expenses related to the Action incurred to date, as well as all such fees and costs incurred in
3 documenting the Agreement, administering the Agreement (including Settlement Administrator Costs),
4 and obtaining final approval of the Agreement, the Enhancement Payment to the Class Representative and
5 the PAGA Payment. Any monies necessary to satisfy Defendant's, Michael D'Adamo's, or Kevin
6 D'Adamo's tax obligations (*e.g.*, employer FICA, FUTA and SDI contributions on wage payments) on any
7 monies distributed to Participating Class Members will be paid in addition to the Gross Settlement Amount.

8 5.2 Attorneys' Fees and Costs: Class Counsel will apply to the Court for attorney's fees of 35%
9 of the Gross Settlement Amount, which shall be paid from the Gross Settlement Amount. Defendant has
10 agreed to not oppose Class Counsel's application for attorneys' fees so long as it does not exceed the 35%
11 threshold. Class Counsel will also be entitled to reimbursement for advanced litigation expenses not to
12 exceed \$15,000, which shall be paid from the Gross Settlement Amount. Defendant has agreed to not
13 oppose Class Counsel's request for reimbursement for advanced litigation expenses so long as they do not
14 exceed the \$15,000 threshold. The Settlement Administrator will issue Class Counsel an IRS Form 1099
15 for the attorneys' fees and costs paid under this Agreement. In the event that the Court awards less than
16 the requested attorney's fees and/or costs, the portion of the requested amounts not awarded to Class
17 Counsel shall be added to the Net Settlement Amount to be distributed to Participating Class Members on
18 a pro rata basis.

19 5.3 Settlement Administrator Costs: The Settlement Administrator Costs shall be paid from the
20 Gross Settlement Amount and shall not exceed \$20,000. The difference between any actual costs and the
21 allocated \$20,000 shall be added to the Net Settlement Amount to be distributed to Participating Class
22 Members on a pro rata basis.

23 5.4 Enhancement Payment: Class Counsel, on behalf of Plaintiff, shall apply to the Court for
24 an Enhancement Payment to the Class Representative in an amount not to exceed \$15,000 (Fifteen
25 Thousand Dollars and Zero Cents) to compensate for the risks, time, and expense of her involvement in
26 the Action and securing the benefits of this Agreement for Class Members. The Enhancement Payment is
27 in addition to the Individual Settlement Amount Plaintiff would otherwise be due under the Agreement as
28 a Participating Class Member. Defendant has agreed to not oppose Class Counsel's request for an

Enhancement Payment to Plaintiff so long as it does not exceed the amount stated herein. The Enhancement Payment will be designated as a non-wage payment and reported on an IRS Form 1099-MISC. In the event that the Court awards less than the Enhancement Payment amount requested, then any portion of the requested amount not awarded to the Class Representative shall be added to the Net Settlement Amount to be distributed to Participating Class Members on a pro rata basis.

5.5 PAGA Payment: Fifty Thousand Dollars and Zero Cents (\$50,000) of the Gross Settlement Amount shall be allocated to resolving claims under the PAGA. Seventy-Five percent (75%) of the PAGA Payment will be paid to the LWDA and Twenty-Five percent (25%) will be paid to Aggrieved Employees on a pro rata basis as described below in Section 5.8. Any amount not approved by the Court for the allocated PAGA Payment shall be added to the Net Settlement Amount to be distributed to Participating Class Members on a pro rata basis.

5.6 Treatment of Residue and Cy Pres: For any portion of the Net Settlement Amount or PAGA Payment allocated to Participating Class Members and/or Aggrieved Employees that were not claimed by cashing their respective settlement checks before the deadline to do so, that remaining amount shall be donated equally, *i.e.*, 50/50, to Capital Pro Bono, Inc., and the Center for Workers' Rights under the doctrine of *cy pres*. No portion of the Gross Settlement Amount will revert to Defendant for any reason.

5.7 No Additional Benefits Contributions: All Individual Settlement Amounts paid to Participating Class Members and Aggrieved Employees shall be deemed to be income solely in the year in which such amounts were actually received. It is expressly understood and agreed that the receipt of such Individual Settlement Amounts will not entitle any Participating Class Member or Aggrieved Employee to any new or additional compensation or benefits under any company bonus or other compensation or benefit plan or agreement in place during the period covered by the Agreement, nor will it entitle any Participating Class Member Aggrieved Employee to any increased retirement, 401(k) and/or 403(b) benefits or matching benefits, or deferred compensation benefits. It is the intent of this Agreement that the Individual Settlement Amounts provided for in this Agreement are the sole payments to be made by Defendant, Michael D'Adamo, and Kevin D'Adamo to the Participating Class Members and Aggrieved Employees in connection with this Agreement (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Agreement).

1 5.8 Pro Rata Distribution Formula: Payment to Participating Class Members and Aggrieved
2 Employees of their Individual Settlement Amount will not require the submission of a claim form. A Net
3 Settlement Amount will be determined by subtracting from the Gross Settlement Amount any amounts for
4 approved attorneys' fees and costs, any Enhancement Payment to the Class Representative, the Settlement
5 Administrator Costs, and the PAGA Payment. Each Class Member's share will be initially determined by
6 dividing their total Qualifying Pay Periods within the Class Period by the total Qualifying Pay Periods of
7 all Class Members. That fraction will then be multiplied by the Net Settlement Amount to arrive at the
8 Class Member's individual share of the Net Settlement Amount. Any funds allocated to Class Members
9 under this formula who timely opt out of the Settlement will be redistributed to Participating Class
10 Members on a pro rata basis, *i.e.* each Participating Class Member's share will be determined by dividing
11 their total Qualifying Pay Periods within the Class Period by the total Qualifying Pay Periods of all
12 Participating Class Members and that fraction will then be multiplied by the Net Settlement Amount to
13 arrive at the Participating Class Member's individual share of the Net Settlement Amount. Each Aggrieved
14 Employee's share of the 25% portion of the PAGA Payment will be determined by dividing their total
15 Qualifying Pay Periods within the PAGA Claim Period by the total Qualifying Pay Periods by all
16 Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25%
17 portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share.

18 5.9 Tax Allocation: The Parties recognize that the Individual Settlement Amounts to be paid to
19 Participating Class Members and/or Aggrieved Employees reflect a settlement of a dispute over claimed
20 penalties and wages. The Settlement Administrator shall calculate the employer's share of payroll taxes
21 on the amounts paid to Participating Class Members as wages as well as calculating all required
22 withholdings and deductions from said wage payments. The characterization of Individual Settlement
23 Amounts to Participating Class Members and Aggrieved Employees are as follows:

24 5.9.1 One third (1/3) of each Participating Class Members' Individual Settlement Amount
25 shall be allocated for payment of disputed wages and shall be subject to required employer taxes.
26 Participating Class Members shall receive an IRS Form W-2 for reporting of this portion of their Individual
27 Settlement Amount.

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1 5.9.2 Two thirds (2/3) of each Participating Class Members' Individual Settlement
2 Amount shall be allocated for disputed statutory penalties and interest, and no amount shall be deducted
3 for any taxes. This portion of the Individual Settlement Amount consists of other income, not wages, for
4 which the Participating Class Members shall receive an IRS Form 1099-MISC.

5 5.9.3 The entirety (100%) of each Aggrieved Employee's share of the 25% portion of the
6 PAGA Payment shall be allocated for payment of disputed civil penalties, and no amount shall be deducted
7 for any taxes. This portion of the Individual Settlement Amount consists of other income, not wages, for
8 which the Aggrieved Employees shall receive an IRS Form 1099-MISC.

9 5.10 Participating Class Members and Aggrieved Employees shall be solely responsible for the
10 reporting and payment of their share of any federal, state and/or municipal income or other taxes on
11 payments made pursuant to this Agreement, and shall hold the Parties, Class Counsel, and Defendant's
12 Counsel free and harmless from any claims resulting from treatment of such payments as non-taxable,
13 including the treatment of such payments as not subject to withholding or deduction for payroll and
14 employment taxes. No party has made any representation to any of the other Parties as to the taxability of
15 any payments pursuant to this Agreement, including the payments to Participating Class Members, the
16 payments to Aggrieved Employees, the payments to Class Counsel, the payments to the Class
17 Representative, the payroll tax liability of Defendant, or the allocation of the Net Settlement Amount or
18 PAGA Payment to wage and non-wage income as provided in this Section, or otherwise as to tax
19 implications of any provision of this Agreement.

20 5.11 No Additional Contribution by Defendant: Defendant's, Michael D'Adamo's, and Kevin
21 D'Adamo's monetary obligation under this Agreement is limited to the Gross Settlement Amount and any
22 employer side payroll taxes owed on amounts characterized as wages under this Agreement. All other
23 costs and expenses arising out of or in connection with the performance of this Agreement shall be paid
24 from the Gross Settlement Amount, unless expressly provided otherwise herein. However, in the event
25 this agreement is deemed null and void as described in Section 3 because the Court, in its independent
26 determination, finds that the Agreement does not meet the standards for settlement approval, and the Parties
27 are not otherwise able to resolve the Court's concerns and finalize settlement, then Defendant, Kevin
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D'Adamo, Michael D'Adamo and Plaintiff shall be equally responsible for the costs of the Settlement Administrator incurred between the date the Agreement was executed and the date of such event.

5.12 Certification For Settlement Purposes: The Parties agree that, for purposes of settlement only, certification of the class as defined in Section 1.5 and 4.1 is appropriate and the requisites for establishing class certification have been met and are met.

5.13 Adequacy of Class Counsel and Class Representative: The Parties agree that, for purposes of settlement only, Class Counsel and Plaintiff are adequate representatives for Class Members and Aggrieved Employees.

6. RELEASE

6.1 Release of Claims by Participating Class Members: Upon the Effective Date, all Participating Class Members will be deemed to fully, finally and forever release the Released Class Claims as to all Released Parties. In addition, on the Effective Date, all Participating Class Members and their successors in interest will be permanently enjoined and forever barred from prosecuting any of Released Class Claims against any of the Released Parties.

6.2 Release of Claims by Aggrieved Employees: Upon the Effective Date, all Aggrieved Employees will be deemed to fully, finally and forever release the Released PAGA Claims as to all Released Parties. In addition, on the Effective Date, all Aggrieved Employees and their successors in interest will be permanently enjoined and forever barred from prosecuting any of the Released PAGA Claims against any of the Released Parties.

7. SETTLEMENT ADMINISTRATION

7.1 Duties of Settlement Administrator: The Settlement Administrator shall be responsible for: 1) receiving Class Member and Aggrieved Employee contact information and confirming addresses are valid; 2) calculating estimated Individual Settlement Amounts and any and all taxes associated with the Individual Settlement Amounts, including employer taxes; 3) taking appropriate steps to trace and locate any individual Class Members and Aggrieved Employee whose address or contact information as provided to the Settlement Administrator is inaccurate or outdated and mailing the Notice of Settlement to Class Members; 4) providing notification to the appropriate state and federal officials of this Agreement as required under the law; 5) receiving, independently reviewing, and resolving any challenges (in

consultation with Class Counsel and Defendant's Counsel) from Class Members or Aggrieved Employees, including any associated documentation, regarding their Qualified Pay Period calculations; 6) receiving and serving on Class Counsel, Defendant's Counsel, and the Court, copies of any written objections, and/or any opt out statements; 7) establishing a toll free telephone line and responding to inquiries and requests for information or assistance from Class Members and/or Aggrieved Employees; 8) maintaining a QSF; 9) determining and paying the final amounts due to be paid under the Agreement after resolution of all challenges, disputes, opt-outs, awarded attorneys' fees and costs, Settlement Administrator Costs, PAGA Payment, taxes, any Enhancement Payments, and for funds that cannot be distributed due to the inability to locate Class Members or Aggrieved Employees; 10) determining the validity of any disputes or late opt-outs by previously unidentified Class Members or Aggrieved Employees; 11) paying any residual funds from uncashed checks; 12) reporting to Class Counsel and Defendant's Counsel regarding the statistics of the administration, including (a) the number of initial Notice of Settlements mailed; (b) the number of forwarded Notice of Settlements; (c) the number of re-mailed Notice of Settlements; (d) the number of total undeliverable Notice of Settlements; (e) the number of address traces performed for undeliverable Notice of Settlements; (f) the number of Notice of Settlements undeliverable from traced addresses; (g) the number of total objections received; (h) the number of opt-out requests received; (i) the number of disputes received; (j) the number of disputes resolved; 13) providing a declaration to the Court regarding the final statistics of the administration and compliance with all payment obligations under the Agreement; 14) completing all necessary tax reporting and payments on the QSF and payment of the Individual Settlement Amounts to Participating Class Members and Aggrieved Employees; and 15) carrying out other related tasks as necessary to effectuate the terms of this Agreement and any Order of the Court. All disputes relating to the Settlement Administrator's ability and need to perform its duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms and conditions of this Agreement, until all payments and obligations contemplated by the Agreement have been fully executed.

7.2 Notice to Class Members and Aggrieved Employees: Defendant represents and warrants that Class Members and Aggrieved Employees are able to read and write in English such that no translation of the Notice of Settlement into another language is necessary. The Notice of Settlement will provide Class Members and Aggrieved Employees with a summary of the terms and conditions of the Agreement, how

1 to participate in the settlement, how to object to the Agreement, how to dispute the individual's Qualifying
2 Pay Periods, and how to opt-out from the Agreement. The Notice of Settlement will also inform Class
3 Members and Aggrieved Employees of the Gross Settlement Amount, Net Settlement Amount, proposed
4 attorneys' fees and costs allocations, any proposed Enhancement Payments, proposed Settlement
5 Administrator Cost allocations, proposed PAGA Payment allocations, the scope of the class, the nature and
6 extent of the released claims, dates set for a fairness hearing and hearing on Class Counsels' motion for
7 attorneys' fees and costs. The Notice of Settlement shall include information regarding Class Member's
8 and Aggrieved Employee's estimated Individual Settlement Amount. The Notice of Settlement will
9 provide information on how to access electronic copies online of the Notice of Settlement, any motions for
10 approval of the Agreement, any motions for approval of attorneys' fees and costs, and any other documents
11 as the Court directs.

12 7.3 Class Member Data and Mailing: No later than fourteen (14) calendar days after the
13 Preliminary Approval Date, Defendant shall provide the Settlement Administrator with the name, last
14 known mailing address, last known telephone number, Social Security Number, the number of pay periods
15 worked for each Class Member and Aggrieved Employee, and any other information the Settlement
16 Administrator needs to effectuate notice to Class Members and Aggrieved Employees as outlined herein.
17 No later than fourteen (14) calendar days after receipt of such address information, the Settlement
18 Administrator will perform a national change of address ("NCOA") search, update the addresses per the
19 results of the NCOA search, and then mail the Notice of Settlement, substantially in the form attached as
20 Exhibit 1, to each Class Member and Aggrieved Employee by first-class mail, postage prepaid. The
21 Settlement Administrator shall maintain all information received from Defendant confidential to itself, and
22 Defendant's Counsel. However, Class Counsel shall be able to review the breakdown of Qualified Pay
23 Periods and estimated Individual Settlement Amounts for Class Members and Aggrieved Employees prior
24 to mailing for quality assurance provided the personal identifying information is redacted and/or omitted.

25 7.4 Returned and/or Re-mailed Notice of Settlements: In the event that a Notice of Settlement
26 is returned to the Settlement Administrator as undeliverable on or before the conclusion of the Notice
27 Period, the Notice of Settlement shall be sent to the forwarding address affixed thereto within five (5)
28 calendar days. If no forwarding address is provided, then the Settlement Administrator shall promptly

attempt to determine a correct address using a skip-trace, computer or other search using the name, address and/or Social Security number of the individual involved, and shall then perform a single re-mailing within five (5) calendar days to any more recent address found as a result of the search. Following each search that does not result in a corrected address, for those Class Members who appear to be current employees of Defendant at the time of the Preliminary Approval Date, the Settlement Administrator shall contact Defendant's Counsel for assistance and Defendant shall cooperate in good faith with the Settlement Administrator's reasonable efforts to obtain valid mailing addresses for Class Members to the extent they are active employees of Defendant. In the event the Notice of Settlement is forwarded to a new address and/or re-mailed to a Class Member, the deadline for the Class Member to submit any request to opt-out, a dispute, or an objection shall be the end of the Notice Period or 10 days from the date of the re-mailing/forwarding to a new address, whichever is later. In the event the procedures in this Section are followed and the Class Member does not timely and properly request to opt-out, the Class Member shall be bound by all terms of the Agreement, including the releases contained in Section 6.

7.5 Responses to Notice of Settlement:

7.5.1 *Opt-Outs:* The Notice of Settlement shall provide that Class Members who wish to exclude themselves from the Agreement must submit a request to opt-out as provided in this Section. The request to opt-out must (a) state the Class Member's full name and date of birth; (b) a statement that he or she does not want to be a Class Member, does not want to participate in the settlement, and/or wants to be excluded from the settlement; (c) identify the case name and number (*i.e.*, *Collazo v. T.O.P. Marketing Group, Inc.*, Case No. 34-2022-00314092); (d) be signed; and (e) be post-marked no later than the conclusion of the Notice Period or the re-mailing timeline stated in Section 7.4. The Class Member must personally sign the request to opt-out. No request to opt-out may be made on behalf of a group of Class Members. The date of the postmark on the return-mailing envelope shall be the exclusive means used to determine whether a request to opt-out has been timely submitted. Any Class Member who requests to opt-out of the Agreement will not be entitled to any portion of the Net Settlement Amount nor will they have any right to object, appeal or comment thereon. The name of any Class Member who submits a valid and timely opt out request will be specifically identified in any proposed order granting final approval. Class Members who fail to submit a valid and timely request to opt-out shall be bound by all terms of the

1 Agreement and any order or final judgment thereon. Regardless of whether an Aggrieved Employee opts
2 out of being a Class Member, they will still receive their share of the PAGA Payment as Aggrieved
3 Employees cannot opt out of this Agreement as it relates to the PAGA Payment or Released PAGA Claims.

4 7.5.2 *Objection Procedures:* Any Class Member who does not opt-out but who wishes to
5 object to this Agreement or otherwise to be heard concerning this Agreement shall send their written
6 objections to the Settlement Administrator and also serve copies of the objections on Class Counsel and
7 Defendant's Counsel. The Notice of Settlement shall make clear that the Court can only approve or deny
8 the Agreement, not change the terms of the Agreement. The objection must (a) state the Class Member's
9 full name and date of birth; (b) provide evidence that the individual is, in fact, a Class Member; (c) state
10 the reasons for the objection(s), including any supporting documentation; (d) identify the case name and
11 number (*i.e.*, *Collazo v. T.O.P. Marketing Group, Inc.*, Case No. 34-2022-00314092) (e) be signed; and (f)
12 be post-marked no later than the conclusion of the Notice Period or the re-mailing timeline stated in Section
13 7.4. The Notice of Settlement will inform the Class Member that they should also file a notice of intent to
14 appear with the Court and serve the notice on Class Counsel and Defendant's Counsel, if they intend to
15 appear at the final approval hearing.

16 7.5.3 *Dispute Procedures:* Any Class Member who disputes the number of Qualifying
17 Pay Periods on the Notice of Settlement shall contact the Settlement Administrator. The dispute must (a)
18 identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c)
19 be signed; and (d) be post-marked no later than the conclusion of the Notice Period or the re-mailing
20 timeline stated in Section 7.4. The Settlement Administrator shall promptly (in no event more than two
21 business days) forward all such disputes to Defendant's Counsel and request that Defendant review the
22 dispute. Defendant's records shall presumptively control unless the Class Member can produce
23 documentation evidencing other periods of employment worked. If Defendant agrees with submitted
24 information, the Class Member shall be credited or subtracted Qualifying Pay Periods in accordance with
25 their submitted dispute and that final number of Qualified Pay Periods shall govern the calculation of that
26 Class Member's Individual Settlement Amount. If Defendant disagrees with the submitted information,
27 Defendant's Counsel will promptly advise Class Counsel of the dispute, which includes turning over any
28 documentation submitted by the Class Member as part of the dispute. Defendant's Counsel and Class

Counsel shall attempt in good faith to resolve any such dispute within five (5) calendar days of Class Counsel being advised of the dispute. Each dispute that Defendant's Counsel and Class Counsel cannot timely resolve shall be resolved by the Settlement Administrator, subject to Court review.

7.5.4 Deficient Opt-Outs, Objections, or Disputes: In the event that a deficient opt-out, objection, or dispute is received on or before the conclusion of the Notice Period, the Settlement Administrator shall mail a letter to the Class Member within five (5) calendar days informing them of the deficiency. If a deficiency letter is mailed to a Class Member, the deadline for the Class Member to cure the deficiency shall be the end of the Notice Period or 10 calendar days from the date of the deficiency letter, whichever is later.

7.6 Due Process Acknowledgement: Compliance with the procedures set forth in Sections 7.1 to 7.5.4 shall constitute due and sufficient notice to Class Members of the Action and the Agreement and shall satisfy Class Members' due process rights. Nothing else shall be required of the Parties, Class Counsel or Defendant's Counsel to provide notice of the proposed Agreement.

7.7 Settlement Administrator Declaration Regarding Notice Period: Within fourteen (14) calendar days after the conclusion of the Notice Period, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel with a signed declaration under penalty of perjury providing a complete and detailed report regarding the statistics and responses of settlement administration to date and all the Settlement Administrators' obligations under Sections 5.8 to 5.9.3 and 7.1 to 7.5.4.

7.8 Settlement Administrator Payments to Participating Class Members, Class Counsel and Plaintiff: Within seven (7) calendar days after the Effective Date and the Court's determination of the amount of attorneys' fees and costs payable to Class Counsel, the Enhancement Payment payable to Plaintiff, the PAGA Payment, and Settlement Administrator Costs, the Settlement Administrator shall calculate the final Net Settlement Amount, the final Individual Settlement Amounts for Participating Class Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations Class Counsel and Defendant's Counsel. Defendant, Kevin D'Adamo, and Michael D'Adamo shall wire the Gross Settlement Amount and applicable taxes necessary to fund the Settlement as described in Section 5.1 to the Settlement Administrator within twenty-one (21) calendar days after the Effective Date to be to be held in trust in a QSF. Within seven (7) calendar days after the settlement is funded, the

1 Settlement Administrator shall deliver payment of Class Counsels' attorney's fees and costs, the
2 Enhancement Payment payable to Plaintiff, the 75% portion of the PAGA Payment payable to the LWDA,
3 Settlement Administrator Costs, and payment to Participating Class Members and/or Aggrieved Employees
4 as required under this Agreement and approved by Court.

5 7.8.1 The Settlement Administrator shall wire the Court-approved attorneys' fees and
6 costs to Class Counsel unless another method is requested by Class Counsel. Class Counsel shall provide
7 the Settlement Administrator with the pertinent taxpayer identification number and payment instructions
8 after the Final Approval Date.

9 7.8.2 The Settlement Administrator shall send a check by mail for the Court-approved
10 Enhancement Payment to the Class Representative, care of Class Counsel unless another method is
11 requested by Class Counsel.

12 7.8.3 Only Participating Class Members and Aggrieved Employees will receive their
13 Individual Settlement Amount.

14 7.8.4 The Settlement Administrator shall remit and report the applicable portions of the
15 payroll tax payment to the appropriate taxing authorities on a timely basis pursuant to its duties under this
16 Agreement. Defendant agrees to reasonably cooperate with the Settlement Administrator to the extent
17 necessary to determine the amount of the payroll tax payment required.

18 7.9 Settlement Check Expiration and Uncashed Checks: The Settlement Administrator shall
19 issue Individual Settlement Amounts to Participating Class Members and Aggrieved Employees in the
20 form of a check, which shall become null and void if not deposited within one hundred eighty (180)
21 calendar days of issuance. After one hundred eighty (180) calendar days of issuance, the checks shall be
22 voided and funds from all uncashed checks shall be transmitted in accordance with Section 5.6. The
23 Settlement Administrator shall deliver these funds within fourteen (14) calendar days after the check
24 cashing deadline.

25 7.10 Settlement Administrator Declaration Regarding Compliance and Settlement
26 Administration: Within twenty-one (21) calendar days after the last day for Participating Class Members
27 and Aggrieved Employees to cash their settlement checks, the Settlement Administrator shall provide Class
28 Counsel and Defendant's Counsel with a signed declaration under penalty of perjury providing a complete

and detailed report regarding the settlement administration documenting that all payments under the Agreement have been made, that the Court's final approval order has been complied with, and that all the obligations of the Settlement Administrator have been completed.

8. PRELIMINARY SETTLEMENT ADMINISTRATION SCHEDULE

8.1 The schedule may be modified depending on whether and when the Court grants necessary approvals, orders notice to Class Members and Aggrieved Employees, and sets further hearings. The schedule may also be modified to correct clerical errors and to reflect the provisions in the Agreement as described above. In the event of such modification, the Parties shall cooperate to complete the settlement procedures as expeditiously as reasonably practicable. The preliminary schedule for notice, approval, and payment procedures carrying out the Agreement is as follows:

Last day for Defendant to provide Settlement Administrator with Class Member and Aggrieved Employee information	Within 14 calendar days after the Preliminary Approval Date
Last day for Settlement Administrator to complete NCOA search, update Class Member and Aggrieved Employee mailing information, and mail Notice of Settlement	Within 14 calendar days after the Settlement Administrators' receipt of Class Members' information from Defendant
Last day for Class Members to opt-out, submit disputes, submit objections, and submit data requests	60 calendar days after mailing of Notice of Settlement or within 10 days after Notice of Settlement is re-mailed, whichever is later
Last day for Settlement Administrator to provide Parties with signed declaration reporting on settlement administration statistics	Within 14 calendar days after end of the Notice Period
Last day for Settlement Administrator to calculate the final Net Settlement Amount, the final Individual Settlement Amounts for Participating Class Members and/or Aggrieved Employees, any applicable taxes thereon, and report the results of these calculations to Class Counsel and Defendant's Counsel	Within 7 calendar days after the Effective Date
Last day for Defendant, Michael D'Adamo and Kevin D'Adamo to fund settlement	Within 21 calendar days after the Effective Date

Last day for Settlement Administrator to deliver payment of Class Counsel's attorney's fees and costs, Enhancement Payments, PAGA Payment, Settlement Administrator Costs, payment to Participating Class Members, and payment to Aggrieved Employees	Within 7 calendar days after funding
Last day for Participating Class Members and Aggrieved Employees to cash settlement checks	180 calendar days after issuance of checks to Participating Class Members and Aggrieved Employees
Last day for Settlement Administrator to deliver value of uncashed settlement checks to <i>cy pres</i> beneficiaries	Within 14 calendar days after settlement check cashing deadline
Last day for Settlement Administrator to provide Parties with compliance declaration	Within 21 calendar days after settlement check cashing deadline

9. DUTIES OF THE PARTIES

9.1 Preliminary Approval: The Parties will cooperate in obtaining, through an unopposed motion to be filed as soon as reasonably practicable, an order from the Court preliminarily approving this Agreement at the earliest possible date concurrently with the Court's certification of the Action as a class action for settlement purposes. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to the approval and implementation of this Agreement and shall otherwise use their respective best efforts to obtain certification for settlement purposes, approval of, and implementation of this Agreement. The Parties will submit this Agreement to the Court for preliminary approval of its terms and for approval of the steps to be taken to obtain its final approval. Within one week of signing this Agreement Class Counsel shall provide a draft of the Preliminary Approval Motion to Defendant's Counsel. Defendant's Counsel will provide comments and/or proposed revisions within one week after receipt of the draft Preliminary Approval Motion from Class Counsel. With regard to the final approval documents, a similar one-week maximum review and response time shall be observed by the Parties. The Parties will request that the Court's preliminary approval of this

1 Agreement be embodied in an Order Granting Preliminary Approval of Class Action and PAGA
2 Settlement.

3 9.1.1 Plaintiff's motion shall seek an order: 1) Preliminarily approving the Agreement; 2)
4 Approving as to form and content the proposed Notice of Settlement; 3) Directing the mailing of the Notice
5 of Settlement by first class mail to Class Members and Aggrieved Employees; 4) Preliminarily appointing
6 Plaintiff and Class Counsel as representatives of Class Members; 5) Preliminarily approving settlement
7 administration services to be provided by the Settlement Administrator; 6) Preliminarily approving the
8 proposed Enhancement Payment to Plaintiff; 7) Preliminarily approving the application for payment of
9 reasonable attorneys' fees and reimbursement of litigation-related expenses to Class Counsel; and 8)
10 Scheduling a fairness hearing on the question of whether the proposed Agreement should be finally
11 approved as fair, reasonable and adequate as to the Class Members.

12 9.1.2 Defendant shall not oppose Plaintiff's motion for approval of the proposed
13 Agreement.

14 9.1.3 The Parties shall cooperate with each other and the Settlement Administrator during
15 the process of giving Class Members notice and opportunity to object to the Agreement, as necessary and
16 appropriate to assure effective communication to individual Class Members of information about their
17 rights and obligations under this Agreement.

18 9.2 Final Approval and Fairness Hearing: On a date approved by the Court and set forth in the
19 Notice of Settlement, the Court shall hold the Final Approval and Fairness Hearing where objections, if
20 any, may be heard. Class Counsel shall provide the Court as part of the motion for final approval of the
21 Agreement, a declaration by the Settlement Administrator of due diligence and proof of mailing of the
22 Notice of Settlement required to be mailed to Class Members by this Agreement, and of the delivery results
23 of the Claim Administrator's mailings including tracing and re-mailing efforts.

24 9.2.1 Class Counsel and Defendant shall work in good faith to draft a mutually agreeable
25 Proposed Order Granting Final Approval of Class Action and PAGA Settlement and Final Judgment. The
26 Proposed Order Granting Final Approval of Class Action and PAGA Settlement and Final Judgment shall
27 include findings and orders: 1) Approving the Agreement, adjudging the terms thereof to be fair, reasonable
28 and adequate, and directing that its terms and provisions be carried out; 2) Approving the payment of an

Enhancement Payment to the Class Representative; 3) Approving Class Counsel's application for an award of attorneys' fees and reimbursement of out-of-pocket litigation expenses; 4) Approving the Settlement Administrator Costs; and 5) Providing that the Court will retain jurisdiction to oversee administration and enforcement of the terms of the Agreement and the Court's orders.

9.2.2 Following entry of the Court's order granting final approval of the Agreement, the Parties will each act to ensure the fulfillment of all its provisions, including but not limited to the following: 1) Should an appeal be taken from the final approval of the Agreement or motion to set aside the judgement be filed, all parties will support the final approval order on appeal or otherwise; 2) Class Counsel will assist the Settlement Administrator as needed or requested in the process of identifying and locating Participating Class Members and Aggrieved Employees entitled to payments under the Agreement and assuring delivery of such payments; 3) Class Counsel and Defendant's Counsel will cooperate with each other and assist the Settlement Administrator as needed or requested in completing the distribution of any residual amounts, as specified above, to the *cy pres* beneficiaries; 4) Class Counsel, in conjunction with the Settlement Administrator, will certify to the Court completion of all payments required to be made by this Agreement.

9.3 Final Judgment: If the Court approves this Agreement at the final approval and fairness hearing, the Parties will request that the Court enter an Order Granting Final Approval of Class Action and PAGA Settlement and Final Judgment.

9.4 Notice to LWDA: Plaintiff will provide notice to the Labor and Workforce Development Agency ("LWDA") of this settlement in accordance with Labor Code § 2699(1)(2).

10. MISCELLANEOUS TERMS

10.1 Defendant's Right to Withdraw Based on Opt-Outs: If, prior to the Final Approval Date, 10% or more of the Class Members have submitted proper and timely requests to opt-out in accordance with the provisions of the Agreement, Defendant may rescind the Agreement and all actions taken in its furtherance will be thereby null and void. Defendant must exercise this right of rescission, in writing, to Class Counsel, within seven (7) calendar days after the Settlement Administrator notifies the Parties of the total number of opt-outs. If the option to rescind is exercised, then any Settlement Administrator Costs shall be paid by Defendant. Defendant, Michael D'Adamo and Kevin D'Adamo have represented that there are no more than 18,918 Qualifying Pay Periods during the Class Period. In the event the number

1 of Qualifying Pay Periods during the Class Period is more than 20,810 (*i.e.*, greater than 10% more than
2 18,918), then the Gross Settlement Amount shall be increased proportionally by the pay periods in excess
3 of 18,918, multiplied by the pay period value. For example, if there were 11,900 pay periods represented
4 to exist during the Class Period, but there are actually 15,000 pay periods in the Class Period, and the
5 actual pay period value is \$5.00 per pay period, Defendant, Michael D’Adamo and Kevin D’Adamo
6 would have to increase the Gross Settlement Amount by \$15,500.00 (15,000 pay periods – 11,900 pay
7 periods = 3,100 pay periods x \$5.00/pay period).

8 10.2 Circular 230 Disclaimer: EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF
9 THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT
10 OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND
11 AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN
12 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
13 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH
14 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON
15 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT
16 CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
17 RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX
18 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
19 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
20 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY
21 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
22 DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX
23 PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
24 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
25 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX
26 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON
27 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
28

1 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY
2 THIS AGREEMENT.

3 10.3 No Prior Assignments: The Parties represent, covenant, and warrant that they have not
4 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
5 any person or entity any portion of any liability, claim, demand, action, cause of action or right released
6 and discharged in this Agreement.

7 10.4 Waiver of Appeal and Ability to Opt Out: To the extent permitted by applicable law, by
8 signing this Agreement Defendant is waiving any rights to appeal from the Court's approval of the
9 settlement unless the Court materially modifies the settlement. Furthermore, by signing this Agreement
10 Plaintiff is waiving any right or ability to opt out of this Agreement during the Notice Period or otherwise.

11 10.5 Exhibits Incorporated by Reference: The terms of this Agreement include the terms set
12 forth in any attached Exhibits, which are incorporated by this reference as though fully set forth in this
13 Agreement. Any Exhibits to this Agreement are an integral part of the Settlement.

14 10.6 Judgment and Retention of Jurisdiction to Enforce: Upon the Effective Date, judgment will
15 be entered according to this Agreement. The Parties stipulate and agree that the Sacramento County
16 Superior Court shall have continuing jurisdiction to enforce the terms of the Agreement pursuant to Civil
17 Procedure Code section 664.6 and that the prevailing party any action necessary to enforce the terms of the
18 Agreement after default by the other party may recover reasonable attorney's fees and costs related thereto.

19 10.7 Mutual Cooperation: The Parties agree to cooperate fully with one another to accomplish
20 and implement the terms of this Agreement. Such cooperation shall include, but not be limited to, execution
21 of such other documents and the taking of such other action as may reasonably be necessary to fulfill the
22 terms of this Agreement. The Parties to this Agreement shall use their best efforts, including all efforts
23 contemplated by this Agreement and any other efforts that may become necessary by Court order, or
24 otherwise, to effectuate this Agreement and the terms set forth herein.

25 10.8 No Admission of Liability: Neither the acceptance nor the performance by Defendant of
26 the terms of this Agreement, nor any of the related negotiations or proceedings, is or shall be claimed to
27 be, construed as, or deemed to be, an admission by Defendant of the truth of any of the allegations in the
28 Complaint, the representative character of the Action, the validity of any of the claims that were or could

1 have been asserted by Plaintiff and/or Class Members in the Action, or of any liability or guilt of Defendant
2 in the Action. Nothing in this Agreement shall be construed to be or deemed an admission by Defendant
3 of any liability, culpability, negligence, or wrongdoing toward Plaintiff, the Class Members, or any other
4 person, and Defendant specifically disclaim any liability, culpability, negligence, or wrongdoing toward
5 Plaintiff, the Class Members, or any other person. Each of the Parties has entered into this Stipulation with
6 the intention to avoid further disputes and litigation.

7 10.9 Notices: Unless otherwise specifically provided herein, all notices, demands, or other
8 communications given hereunder shall be in writing and shall be deemed to have been duly given as of the
9 third business day after mailing by United States certified mail, return receipt requested, addressed as
10 follows:

11 To Plaintiff and the Class:

12 Galen T. Shimoda
13 Justin P. Rodriguez
14 Brittany V. Berzin
15 Shimoda & Rodriguez Law, PC
16 9401 East Stockton Blvd., Suite 120
17 Elk Grove, CA 95624

18 To Defendant:

19 Joel M. Van Parys
20 Tashayla Billington
21 CDF Labor Law LLP
22 900 University Ave, Suite 200
23 Sacramento, CA 95825

24 10.10 Mutual Drafting of Agreement: The Parties hereto agree that the terms and conditions of
25 this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that
26 this Agreement shall not be construed in favor of or against any party by reason of the extent to which any
27 party or its counsel participated in the drafting of this Agreement.

28 10.11 Attorneys' Fees and Costs Limitations: Neither Class Counsel nor any other attorneys
acting for, or purporting to act for, the Class, Class Members, or Plaintiff, may recover or seek to recover
any amounts for fees, costs, or disbursements from the Releasees or the Gross Settlement Amount except
as expressly provided in this Agreement.

1 10.12 No Modifications: This Agreement may be amended or modified only by a written
2 instrument signed by counsel for all Parties or their successors-in-interest. This Agreement may not be
3 discharged except by performance in accordance with its terms.

4 10.13 Authorization to Enter Into Settlement Agreement: Counsel for all Parties warrant and
5 represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and
6 to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
7 to effectuate its terms and to execute any other documents required to effectuate the terms of this
8 Agreement.

9 10.14 Class Member Signatories: Because the Action has not yet been certified, and the Class
10 Members are so numerous, the Parties agree that it is impossible or impractical to have each Class Member
11 sign this Agreement. It is agreed that, for purposes of seeking approval of the Agreement, this Agreement
12 may be executed on behalf of all Class Members by the Class Representative.

13 10.15 Counterparts: This Agreement shall become effective upon its execution by all of the
14 undersigned. Plaintiff, Class Counsel, Defendant and Defendant's Counsel may execute this Agreement in
15 counterparts, and execution of counterparts shall have the same force and effect as if each had signed the
16 same instrument. Facsimile, electronic, and/or scanned copies of signatures shall have the same force and
17 effect of originals.

18 10.16 Choice of Law: The Agreement and any exhibits hereto shall be considered to have been
19 negotiated, executed, and delivered, and to have been wholly performed, in the State of California, and the
20 rights and obligations of the Parties to the Agreement shall be construed and enforced in accordance with,
21 and governed by, the substantive laws of the State of California without giving effect to that State's choice
22 of law principles.

23 10.17 Headings and Captions: Section titles or captions contained in the Agreement are inserted
24 as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of
25 this Agreement, or any provision thereof.

26 10.18 No Retaliation or Discouragement: The Parties agree they will take no action that could be
27 construed as retaliation against any Class Members for participating or seeking to participate in this class
28 action settlement. The Parties will not discourage any class member from participating or seeking to

1 participate in this class action settlement. This is a material term of the Agreement and non-breaching
2 Parties will seek court intervention if this provision is breached.

3 10.19 Integrated Agreement: This Agreement sets forth the entire understanding between the
4 Parties and supersedes any and all prior agreements, oral or written, pertaining to the subject matter hereof.
5 Each party acknowledges that there is no representation, inducement, promise or agreement which has been
6 made, orally or otherwise, by the other party, concerning the terms or conditions of this Agreement, which
7 is not expressly embodied in this Agreement. In entering into this Agreement, the Parties represent that the
8 terms of this Agreement are fully understood and voluntarily accepted by the Parties.

9 10.20 Binding on Successors and Assigns: This Agreement will be binding upon, and inure to the
10 benefit of, the successors or assigns of the Parties to this Agreement, as previously defined.

11 10.21 Invalidity of Any Provision: Before declaring any provision of this Agreement invalid, the
12 Court will first attempt to construe the provision as valid to the fullest extent possible consistent with
13 applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

14 10.22 Waiver of Compliance: No waiver of any condition or covenant contained in this
15 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply
16 or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

17 IN WITNESS WHEREOF, this Agreement is executed by the Parties and their duly authorized
18 attorneys, as of the day and year herein set forth.

19
20
21 **For Plaintiff:**

22 Date: 11/18/2022

DocuSigned by:

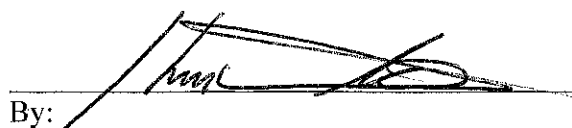
Erika F. Collazo

BBBDB8F7A2EC414...

Erika Collazo

23
24 **For Defendant:**

25 Date: _____

26 By: 

27 For T.O.P. Marketing Group, Inc.

Date: _____

Michael D'Adamo

Date: _____

Kevin D'Adamo

APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

Dated: 11/18/22

By: *Brittany Berzin*
Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Attorneys for Plaintiff and Aggrieved
Employees

APPROVED AS TO FORM

CDF LABOR LAW LLP

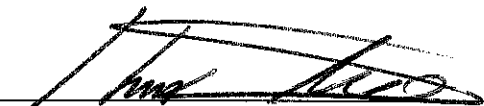
Dated: _____

By: _____
Joel M. Van Parys
Tashayla Billington
Attorneys for Defendant

1
2
3 Date: 11/28/22
4


Michael D'Adamo

5
6
7 Date: 11/28/22
8


Kevin D'Adamo

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11 APPROVED AS TO FORM

Shimoda & Rodriguez Law, PC

12
13 Dated: _____

By: _____
Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Attorneys for Plaintiff and Aggrieved
Employees

14
15
16 APPROVED AS TO FORM

CDF LABOR LAW LLP

17
18
19 Dated: November 29, 2022


By: _____
Joel M. Van Parys
Tashayla Billington
Attorneys for Defendant

EXHIBIT 1

CALIFORNIA SUPERIOR COURT
FOR THE COUNTY OF SACRAMENTO

ERIKA COLLAZO, individually and on behalf
of all other similarly situated employees,

Plaintiff,

vs.

T.O.P. MARKETING GROUP, INC., a New
York Corporation; and DOES 1 to 100, inclusive,

Defendants.

Case No. **34-2022-00314092**

**NOTICE OF PROPOSED CLASS ACTION
AND PAGA SETTLEMENT, AND HEARING
DATE FOR FINAL COURT APPROVAL OF
SETTLEMENT**

ATTENTION: all non-exempt employees or contractors who have, or continue to, work for T.O.P. Marketing Group, Inc. in California during the Class Period (as defined below), including but not limited to all customer service associates, customer service reps, customer service assistants, customer service specialists, warehouse workers, canvassers, event marketers, distribution specialists, sales representatives, or other job title performing similar job duties, whether as an employee or independent contractor, with the exception of any individuals who only performed sales of Lifeline goods or services through T.O.P. Marketing Group, Inc. for SafetyNet Wireless (the dba for Amerimex Communications Corp.) between January 19, 2018 and February 27, 2019, and who were included in the information exchanged between the parties during the litigation in *Gregory v. Amerimex Communications Corp., et al.*, Case No. BC670901 (the “Class Members”).

PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF CLASS ACTION LITIGATION AND POTENTIAL DISBURSEMENT OF SETTLEMENT FUNDS TO YOU. IF YOU ARE A CLASS MEMBER, IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHT TO PARTICIPATE IN OR OPT OUT OF THE SETTLEMENT ACCORDING TO THE PROCEDURES DESCRIBED BELOW.

You are receiving this notice pursuant to an order from the Sacramento County Superior Court (“Court”) granting Plaintiff’s motion for preliminary approval of a Joint Stipulation Regarding Class Action and PAGA Settlement and Release (“Agreement” or “Settlement”) as fair, reasonable, and adequate. The Settlement was entered into between Plaintiff Erika Collazo (“Plaintiff” or “Class Representative”) on behalf of Class Members as defined above and Defendant T.O.P. Marketing Group, Inc. (“Defendant”) and its owners, Kevin D’Adamo and Michael D’Adamo. The terms of the Settlement are outlined herein. You are receiving this notice because Defendant’s records indicate you fall within the definition of “Class Member.” Defendant’s records also indicate that you worked [REDACTED] pay periods during the applicable Class Period (as defined below), which means your total share of the settlement proceeds is estimated to be [REDACTED]. Your actual share of the settlement proceeds will vary depending on the total number of Class Members that choose to participate, and the resolution of any pay period disputes as described in this notice.

The terms of the Agreement and a description of the case are identified in this notice. Pursuant to the Court’s order, YOU ARE HEREBY NOTIFIED AS FOLLOWS:

I. BACKGROUND OF THE CASE

On January 19, 2022, Plaintiff filed a Complaint against Defendant in the Superior Court of California for the County of Sacramento on behalf of herself and Class Members. The term “Action” means this putative class action pending in Sacramento County Superior Court, Case No. 34-2022-00314092. The Class Period is January 19, 2018 to [REDACTED] (the “Class Period”).

In the Action, Plaintiff sought to obtain unpaid wages, interest, statutory penalties, civil penalties, fees, and costs on behalf of herself, Class Members, and Aggrieved Employees. Plaintiff alleged that Defendant violated California law by 1) failing to pay overtime wages; 2) failing to pay minimum wages; 3) failing to provide meal periods or pay premiums in lieu thereof; 4) failing to provide rest periods or pay premiums in lieu thereof; 5) failing to provide accurate wage statements; 6) failing to pay final wages; 7) failing to pay reimbursements for expenses; 8) violating provisions regulating hours and days of work in the Industrial Welfare Commission Order; 9) failing to provide paid sick leave; 10) willfully misclassifying workers as independent contractors; and 11) failing to pay contract

wages and making unlawful deductions. Defendant has denied all of Plaintiff's allegations. The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of extensive documentation and information. Furthermore, the Parties have participated in a full day mediation facilitated by a neutral third party. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide settlement. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Agreement, Defendant continues to deny all allegations and claims. Defendant has entered this Settlement to fully, finally, and forever resolve this Action, based on the terms set forth in the Agreement, in order to avoid the burden and expense associated with ongoing litigation.

The Agreement applies to any and all Class Members, which are defined as all non-exempt employees or contractors who have, or continue to, work for T. O. P. Marketing Group, Inc. in California during the Class Period (as defined above), including but not limited to all customer service associates, customer service reps, customer service assistants, customer service specialists, warehouse workers, canvassers, event marketers, distribution specialists, sales representatives, or other job title performing similar job duties, whether as an employee or independent contractor, with the exception of any individuals who only performed sales of Lifeline goods or services through T.O.P. Marketing Group, Inc. for SafetyNet Wireless (the dba for Amerimex Communications Corp.) between January 19, 2018 and February 27, 2019, and who were included in the information exchanged between the parties during the litigation in *Gregory v. Amerimex Communications Corp., et al.*, Case No. BC670901. The Agreement also applies to Aggrieved Employees, which are defined as all non-exempt employees or contractors who have, or continue to, work for T.O.P. Marketing Group, Inc. in California during the PAGA Claim Period (as defined below), including but not limited to all customer service associates, customer service reps, customer service assistants, customer service specialists, warehouse workers, canvassers, event marketers, distribution specialists, sales representatives, or other job title performing similar job duties, whether as an employee or independent contractor. If you are a Class Member, you have the opportunity to participate in the Settlement, or to exclude yourself ("opt out") from the Settlement. This notice is to advise Class Members of how they can either participate in the Settlement or be excluded from the Settlement. As set forth below, Aggrieved Employees cannot opt out of this Agreement as it relates to the PAGA Payment or Released PAGA Claims regardless of whether they opt out of being a Class Member. Aggrieved Employees will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. The Amount of the Settlement

Under the terms of the Agreement, Defendant, Kevin D'Adamo and Michael D'Adamo have agreed to pay a total sum of Eight Hundred Forty-Two Thousand Five Hundred Dollars and Zero Cents (\$842,500) ("Gross Settlement Amount"). Deducted from this Gross Settlement Amount will be sums approved by the Court for attorneys' fees not to exceed 35% of the Gross Settlement Amount, attorneys' costs not to exceed \$15,000, Settlement Administrator Costs estimated not to exceed \$20,000, Class Representative's Enhancement Payment of \$15,000, and \$50,000 for alleged PAGA penalties (the "PAGA Payment"), which will result in a "Net Settlement Amount" for distribution to all Class Members. Any employer side taxes attributable to payments allocated as wages will be paid by Defendant, Kevin D'Adamo or Michael D'Adamo in addition to the Gross Settlement Amount. As explained further below, the amount of each Class Member's share of the Net Settlement Amount will depend on the number of pay periods worked by participating Class Members during the Class Period. Of the \$50,000 allocated to resolving the PAGA claims, 75% of the PAGA Payment will be paid to the State of California Labor and Workforce Development Agency and 25% of the PAGA Payment will be divided among Aggrieved Employees.

The number of pay periods you worked during the Class Period and your estimated total share of the Net Settlement Amount and PAGA Payment ("Individual Settlement Amount") is stated on the first page of this notice. The actual amount received may be more or less than the amount stated depending on the actual number of pay periods worked by Participating Class Members (*i.e.*, those who do not opt out of the Settlement), the resolution of any disputes regarding pay periods, and on the distributions finally approved and allocated by the Court. However, whether Class Members opt out will have no effect on Aggrieved Employees' allocations for the PAGA claims.

B. Individual Settlement Amounts and Allocation Between Class Members and Aggrieved Employees

Defendant will pay Individual Settlement Amounts through the Settlement Administrator, as described below, to each Participating Class Member and to Aggrieved Employees. All Individual Settlement Amounts will be subject to appropriate taxation. The Parties have agreed, based on the allegations in the Action that all Individual Settlement Amounts payable to eligible Class Members will be allocated from the Net Settlement Amount and paid as 2/3 for disputed interest, statutory penalties, and other non-wage damages

for which IRS Forms 1099-MISC and 1099-INT will issue and 1/3 for disputed wages for which IRS Forms W-2 will issue. The PAGA Payment to Aggrieved employees will be paid as 100% for civil penalties.

Payment to Participating Class Members and Aggrieved Employees will not require the submission of a claim form. Each Participating Class Member's share will be determined by dividing their total pay periods worked within the Class Period by the total pay periods worked by all Participating Class Members within the Class Period. That fraction will then be multiplied by the Net Settlement Amount to arrive at the Class Member's individual share of the Net Settlement Amount. Each Aggrieved Employee's share of the 25% portion of the PAGA Payment will be determined by dividing their total pay periods worked within the PAGA Claim Period by the total pay periods worked by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the 25% portion of the PAGA Payment to arrive at the Aggrieved Employee's individual share. The PAGA Claim Period is defined as January 14, 2021 up to [REDACTED]. Defendant's records indicate that you worked [REDACTED] pay periods during the applicable PAGA Claim Period, which means your share of the PAGA Payment is estimated to be [REDACTED]. This amount is included in your estimated Individual Settlement Amount stated on the first page of this notice, not in addition to it. You will still receive your share of the PAGA Payment even if you opt out of being a Class Member. Receipt of the Individual Settlement Amounts will not entitle any Class Member or Aggrieved Employee to additional compensation or benefits under any compensation, retirement or benefit plan or agreement in place during the period covered by the Settlement.

C. Calculations to Be Based on Defendant's Records and Resolution of Pay Period Disputes

For each Class Member, the amount payable will be calculated by the Settlement Administrator from Defendant's records. Defendant's records will be presumed correct unless evidence to the contrary is provided to the Settlement Administrator. Defendant's records and any additional evidence will be reviewed by the Settlement Administrator in the event of a dispute about the number of pay periods worked by an individual Class Member. If a Class Member disputes the accuracy of Defendant's records, all supporting documents evidencing additional pay periods must be submitted by the Class Member. The dispute must (a) identify the nature of the dispute; (b) provide any information or documentation supporting the dispute; (c) be signed; and (d) be post-marked no later than [REDACTED]. The dispute will be resolved by the Settlement Administrator based on the records and evidence provided.

D. Release of Claims

For those Class Members who do not opt out and Aggrieved Employees, the Agreement contains the following releases:

Class members who do not opt out will be deemed to have released any and all class claims that are alleged in the Complaint, and any additional wage and hour claims that could have been brought based on the facts alleged in the Complaint, through the Class Period. This release excludes the release of claims not permitted by law. This release excludes claims for workers' compensation or unemployment insurance benefits. This release will cover all Class Members who do not opt out.

Aggrieved Employees will be deemed to have released any and all claims that were brought under the Private Attorneys General Act, Labor Code §§ 2698 *et seq.*, contained in the Complaint and any additional wage and hour PAGA claims that could have been brought based on the facts alleged in the Complaint during the PAGA Claim Period. Aggrieved Employees cannot opt out of this waiver of claims.

The individuals released ("Released Parties") include Defendant, Michael D'Adamo and Kevin D'Adamo, as well as Defendant's officers, shareholders, directors, agents, employees, attorneys, and insurers.

Class Members and/or Aggrieved Employees can talk to one of the lawyers appointed as Class Counsel (listed below) for free or talk to their own lawyer if they have questions about the released claims and what they mean.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER

A. Participating in the Settlement as a Class Member

If you wish to be a Participating Class Member and believe your pay period information is accurate, **you do not need to take any further action**. Payment will be automatically made to you consistent with the terms of the Agreement and Court Order. If you wish to dispute the pay period calculation, you may follow the procedures outlined in Section II.C above. California law protects Class Members from retaliation based on their decision to participate in the Settlement.

B. Excluding Yourself from the Settlement as a Class Member

The Court will exclude you from the being a Class Member if you request this by [REDACTED]. If you do not wish to be bound by the Settlement as a Class Member, you may request to be excluded (*i.e.*, “opt out”) by submitting a timely written request to the Settlement Administrator. The request to opt-out must (a) state your full name and date of birth; (b) a statement that you do not want to be a Class Member, do not want to participate in the Settlement, and/or wants to be excluded from this Settlement; (c) identify the case name and number (*i.e.*, *Collazo v. T.O.P. Marketing Group, Inc.*, 34-2022-00314092); (d) be signed; and (e) be post-marked no later than [REDACTED]. The request to opt out must be mailed by First Class U.S. Mail, or the equivalent, to:

[admin info]

If you submit a request to opt out which is not postmarked by [REDACTED], your request to opt out will be rejected, and you will be bound by the release and all other terms of the Agreement. Do not use a postage meter as that may not result in a postmark appearing on the envelope containing your request to opt out. Any Class Member who submits a complete and timely request to opt out shall, upon receipt by the Settlement Administrator, no longer be a Class Member and not received their share of the Net Settlement Amount. Aggrieved Employees cannot opt out of this Agreement and will receive their share of the PAGA Payment regardless of whether they opt out of being a Class Member.

C. Objection to Settlement

If you do not opt out of the Settlement, you can object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. You can ask the Court to deny approval by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. The objection must (a) state your full name and date of birth; (b) provide evidence that you are, in fact, a Class Member; (c) state the reasons for the objection(s), including supporting documentation; (d) identify the case name and number (*i.e.*, *Collazo v. T.O.P. Marketing Group, Inc.*, 34-2022-00314092) (e) be signed; and (f) be post-marked no later than [REDACTED]. The objection must be sent to the Settlement Administrator at the address identified in Section III.B and to counsel for Plaintiff and Defendant at the addresses identified in Section VI of this notice.

If you have submitted a written objection as outlined above, you may also appear at the final approval hearing to state your objection. Any Class Member who does not request exclusion may, if the Class Member so desires, enter an appearance through an attorney. If you appear through your own attorney, you are responsible for paying that attorney. You should also file a notice of intent to appear with the Court and serve the notice on counsel for Plaintiff and Defendant.

IV. EFFECT OF THE SETTLEMENT: RELEASED RIGHTS AND CLAIMS

If the Court grants final approval of the Settlement, the Court will make and enter judgment consistent therewith. The judgment, whether favorable or not, will bind all Class Members who do not request exclusion. After final approval, each and every Class Member who does not opt out of the Settlement and Aggrieved Employee, will release Defendant and the Released Parties from the Released Class Claims and the Released PAGA Claims described above. In other words, if you were employed as a Class Member by Defendant in California during the Class Period, and you do not exclude yourself from the Settlement, you will be deemed to have entered into these releases and to have released the above-described claims. In addition, you will be barred from ever suing Defendant and the Released Parties with respect to the claims covered by this Settlement. If the Settlement is not approved by the Court or does not become final for some other reason, the litigation will continue.

V. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Department 28, 720 9th Street, Sacramento, CA 95814, on [REDACTED] at 9:00 a.m. to determine whether the Agreement should be finally approved as fair, reasonable and adequate. The Court also will be asked to approve Class Counsel’s request for attorneys’ fees and costs, the Settlement Administrator Costs, and the Class Representative’s Enhancement Payment. The hearing may be continued without further notice. It is not necessary for you to appear at this hearing.

VI. ADDITIONAL INFORMATION

You may access the Complaint, Class Counsel’s motion for preliminary approval, the Agreement, and any other documents

required by the Court at the Settlement Administrator's website: [admin web address]. You can also contact Class Counsel or Defendant's Counsel as follows:

Justin P. Rodriguez
Brittany V. Berzin
Shimoda & Rodriguez Law, PC
9401 East Stockton Blvd., Suite 120
Elk Grove, CA 95624
Telephone: (916) 525-0716
On behalf of Plaintiff

Joel M. Van Parys
Tashayla Billington
CDF Labor Law LLP
900 University Ave, Suite 200
Sacramento, CA 95825
Phone: (916) 361-0991
On behalf of Defendant

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS. IF YOU HAVE ANY QUESTIONS, CALL [number]

BY ORDER OF THE COURT