

CLASS ACTION SETTLEMENT AGREEMENT

THIS CLASS ACTION SETTLEMENT AGREEMENT (the “**Agreement**”) is made this 19th day of August, 2020 by and between Plaintiffs Sean Miner, David Heumann, and Shawna Admire, on their own behalf and on behalf of the Settlement Class (as defined below) (collectively, “**Plaintiffs**”), and Deborah J. Caruso, not individually but as the chapter 7 Trustee for the Bankruptcy Estate of ITT Educational Services, Inc., *et al.* (“**Trustee**”). Plaintiffs and the Trustee are each a “**Party**,” and collectively the “**Parties**.”

RECITALS

A. On September 16, 2016 (the “**Petition Date**”), ITT Educational Services, Inc. (“**ITT**”), ESI Service Corp. (“**ESI**”), and Daniel Webster College, Inc. (“**DWC**,” and together with ITT and ESI, the “**Debtors**”) each filed a voluntary petition for relief under chapter 7 of title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of Indiana, Indianapolis Division (“**Bankruptcy Court**”), which cases were ordered jointly administered under Case No. 16-07207 (“**Bankruptcy Case**”).

B. The Trustee became the case trustee in each of the Debtors’ bankruptcy cases following the conclusion of the first meeting of creditors on November 1, 2016, pursuant to section 702(d) of the Bankruptcy Code.

C. Prior to the Petition Date, ITT was a public, for-profit corporation engaged in the business of providing post-secondary degree programs in approximately thirty-nine states and through on-line services. ESI and DWC are subsidiaries of ITT. ITT had at least fourteen (14) campuses located in California.

D. Prior to the Petition Date, Plaintiffs filed a Class Action Complaint on July 20, 2016 against ITT in the Superior Court for the State of California, County of Alameda, Case No. RG16824000, in an action entitled *Sean Miner, David Heumann, and Shawna Admire, individually and on behalf of all others similarly situated v. ITT Educational Services, Inc., a Delaware corporation* (“**California Class Action**”). The California Class Action was thereafter removed by ITT to the United States District Court for the Northern District of California, Case No. 3:16-cv-04827-VC (“**California District Court**”), on August 22, 2016. The California Class Action is presently stayed pursuant to section 362 of the Bankruptcy Code.

E. On September 30, 2016, Plaintiffs Miner and Heumann, as agents of the State of California, pursuant to California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698 *et seq.*), filed in the Bankruptcy Case a proof of claim, Claim No. 27 (“**PAGA Proof of Claim**”), in the amount of \$13,776,000.00, which included as an attachment a copy of the Class Action Complaint filed in the California Class Action. As part of this claim amount, the PAGA Proof of Claim asserted a priority claim pursuant to section 507(a)(4) of the Bankruptcy Code in the amount of \$3,400,000.00 and a pre-petition general unsecured claim in the amount of \$10,376,000.00. On October 5, 2016, in the Bankruptcy Case, Plaintiffs filed a subsequent proof of claim, Claim No 52 (“**Class Proof of Claim**”), in the amount of \$20,219,000.00, which also included as an attachment a copy of the Class Action Complaint filed in the California Class Action. As part of this claim amount, the Class Proof of Claim stated a priority claim under section

507(a)(4) of the Bankruptcy Code in the amount of \$3,400,000.00 (“**Class Priority Claim**”) and a pre-petition general unsecured claim in the amount of \$16,819,000.00 (“**Class Unsecured Claim**”).

F. On September 29, 2016, Plaintiffs also filed in the Bankruptcy Case *Sean Miner, David Heumann, and Shawna Admire’s Motion Pursuant to FRBP 9014 Seeking Application of FRBP 7023 to Class Proof of Claim at the “Claim Filing Stage” of this Case* [Bankruptcy Case, Doc 181].

G. On October 12, 2016, the Bankruptcy Court entered its *Order Granting Motion Pursuant to FRBP 9014 Seeking Application of FRBP 7023 to Class Proof of Claim at the “Claim Filing Stage” of this Case* [Doc 340], which made Bankruptcy Rule 7023 applicable through all stages of the Bankruptcy Case, including claims resolutions of class claims.

H. On January 20, 2017, the Bankruptcy Court entered an Order appointing HammondLaw, P.C. as interim class counsel to represent Plaintiffs in the Bankruptcy Case [Bankruptcy Case, Doc 982].

I. On April 29, 2019, the Trustee and Plaintiffs filed their *Joint Motion Between Deborah J. Caruso, Chapter 7 Trustee of ITT Educational Services, Inc., and Putative Class Representatives Sean Miner, David Heumann and Shawna Admire to Proceed with the “Miner Claims Litigation” in an Adversary Proceeding* [Bankruptcy Case, Doc 3357].

J. On May 22, 2019, the Bankruptcy Court entered the *Order Granting Joint Motion Between Deborah J. Caruso, Chapter 7 Trustee of ITT Educational Services, Inc., and Putative Class Representatives Sean Miner, David Heumann and Shawna Admire to Proceed with the “Miner Claims Litigation” in an Adversary Proceeding* [Bankruptcy Case, Doc 3412].

K. On May 29, 2019, Plaintiffs initiated an adversary proceeding, Adv. Pro. No. 19-50105, against ITT by filing the *Class Action Adversary Proceeding Complaint (“Adversary Proceeding”)*. On June 7, 2019, Plaintiffs filed their *Amended Class Action Adversary Proceeding Complaint* [Adversary Proceeding, Doc 6]. The Trustee filed the *Trustee’s Answer and Affirmative and Additional Defenses to Plaintiffs’ Amended Class Action Adversary Proceeding Complaint* [Adversary Proceeding, Doc 12] on July 8, 2019.

L. In the California Class Action, Class Proof of Claim, PAGA Proof of Claim, and Adversary Proceeding, Plaintiffs allege ITT violated various provisions of the California Labor Code, California Industrial Welfare Commission Wage Order No. 4-2011 and Private Attorneys General Act Civil Penalties, including failure to pay wages for all hours worked (Cal. Labor Code §§ 226.2, 1194, 1194.2; IWC Wage Order No. 4-2001, § 4); failure to provide paid rest periods and pay missed rest break premiums (Cal. Labor Code §§ 226.2 and 226.7; IWC Wage Order No. 4-2001, § 12); failure to pay compensation due upon discharge from employment (Cal. Labor Code §§ 201-203); failure to issue accurate wage statements (Cal. Labor Code § 226); failure to reimburse for business-related expenses, including cellphone usage (Cal. Labor Code § 2802); unfair, unlawful, or fraudulent business practices (Cal. Bus & Prof. Code §§ 17200 *et seq.*); and Private Attorneys General Act Civil Penalties (Cal. Labor Code §§ 2698 *et seq.*). Plaintiffs sought, among other relief, unpaid wages, actual and compensatory damages, restitution, interest, statutory and civil penalties, attorney’s fees, expenses and costs.

M. On July 24, 2019, with the agreement of Plaintiffs, the Trustee filed *Trustee's Motion to Refer Adversary Proceeding to Mediation* in the Adversary Proceeding [Adversary Proceeding, Doc 13], which the Bankruptcy Court granted on August 14, 2019 [Adversary Proceeding, Doc 14]. The Parties selected Honorable Steven Rhodes (Ret.), a panelist with Judicial Arbitration and Mediation Services, Inc., as mediator [*Notice of Selection of Mediator*, Doc 14]. On September 11, 2019, Judge Rhodes conducted a mediation in Indianapolis, Indiana, at which the Parties reached a settlement in principle, subject to the necessary Bankruptcy Court and California District Court approvals provided herein.

N. The Parties desire to resolve all disputes between them without further expense and litigation.

NOW, THEREFORE, subject to approval by the Bankruptcy Court and California District Court, as provided herein, in consideration of the above promises and the mutual covenants of the Parties set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Trustee and Plaintiffs, intending to be legally bound, agree as follows:

1. DEFINITIONS

In addition to the terms defined above and elsewhere in this Agreement, the following terms shall have the meanings specified below.

1.1 **"Adjunct Instructors' Proofs of Claim"** mean both the singular and plural of the proofs of claim filed by individual adjunct instructors who are members of the Settlement Class, as identified on the attached **Exhibit 3** by name, claim number, and case number, to the extent that such proofs of claim are encompassed by the Class Proof of Claim and PAGA Proof of Claim, as described in Recital E.

1.2 **"Bankruptcy Approval Order"** means the Order provided for in Section 3.1 of this Agreement in the form of **Exhibit 1** hereto.

1.3 **"California District Court Preliminary Approval Order"** means the preliminary order provided for in Section 3.2 of this Agreement in the form attached as **Exhibit 2-A**.

1.4 **"California District Court Approval Order"** means the Final Order provided for in Section 3.2 of this Agreement in the form attached as **Exhibit 2-B**.

1.5 **"Class Counsel"** means HammondLaw P.C.

1.6 **"Class Representative"** means Sean Miner, David Heumann, and Shawna Admire, individually, and "Class Representatives" means Sean Miner, David Heumann, and Shawna Admire, collectively.

1.7 “**Estate**” means the chapter 7 bankruptcy estates of one or more of the Debtors.

1.8 “**Final Order**” means an order that is no longer subject to appeal or certiorari proceedings.

1.9 “**Settlement Administrator**” means Simpluris, Inc. or another entity retained by Class Counsel and approved by the Bankruptcy Court and California District Court to administer the settlement and related matters as set forth herein.

1.10 “**Settlement Class**” means all individuals who were at any time employed by ITT as adjunct instructors in California from January 12, 2012 through September 16, 2016.

2. INCORPORATION OF RECITALS

2.1 The foregoing recitals are incorporated into, and are made a part of, this Agreement.

3. CERTIFICATION OF SETTLEMENT CLASS AND CLASS COUNSEL AND SETTLEMENT APPROVAL

3.1 **Approval by the Bankruptcy Court.** Promptly after the execution of this Agreement by all signatories, the Trustee will file a motion in the Bankruptcy Case requesting entry of the Bankruptcy Approval Order that approves this Agreement, including granting limited relief from the automatic stay for the purpose of allowing Class Counsel to seek approval of the California District Court Settlement Components (defined in Section 3.2). The Bankruptcy Approval Order shall:

3.1.1 Approve the allowance of the Class Priority Claim against ITT in the aggregate amount of \$520,000.00 on an “all-in” non-reversionary basis (meaning the amount shall not be increased or reduced based on opt-outs by members of the Settlement Class or any other conditions that could otherwise alter this amount), which allowance shall be a priority claim pursuant to section 507(a)(4) of the Bankruptcy Code (“**Allowed Priority Claim**”). The Bankruptcy Approval Order will incorporate the proposed allocation of any distributions made on account of the Allowed Priority Claim among the Priority Subclass members (defined below) in the manner set forth below;

3.1.2 Allow the Class Proof of Claim against ITT in the aggregate amount of \$4,500,000.00 as a pre-petition general unsecured claim (“**Allowed Unsecured Claim**”). The Bankruptcy Approval Order will incorporate the proposed allocation of any distributions made on account of the Allowed Unsecured Claim among the Unsecured Subclass members (defined below) in the manner set forth below, provided, however, that any distribution will be conditioned upon notification from the Trustee that there are funds of the Estate of ITT available for distribution on account of the Allowed Unsecured Claim;

3.1.3 Disallow with prejudice all other amounts asserted in the Class Proof of Claim;

3.1.4 Disallow with prejudice the PAGA Proof of Claim pursuant to Bankruptcy Rule 3007(d)(1), as it is duplicative of the Class Proof of Claim;

3.1.5 Disallow with prejudice the Adjunct Instructors' Proofs of Claim only to the extent such claims encompass the matters asserted in the Class Proof of Claim or the PAGA Proof of Claim, including, but not limited to, the facts alleged in the California Class Action and the grounds for recovery asserted in any of the foregoing. The disallowance of the Adjunct Instructors' Proofs of Claim shall not apply to that portion of a claim for relief that is not encompassed by the matters asserted in the Class Proof of Claim or PAGA Proof of Claim. Notwithstanding any of the foregoing, if the holder of an Adjunct Instructor's Proof of Claim opts out of the Settlement Class, the Adjunct Instructor's Proof of Claim filed by that holder shall not be disallowed and instead the Bankruptcy Court will determine the allowability of such Adjunct Instructor's Proof of Claim as part of the normal procedures for resolving proofs of claim;

3.1.6 Determine that the settlement satisfies the standards developed under Rule 9019 of the Federal Rules of Bankruptcy Procedure and condition consummation of this Agreement upon entry of a preliminary order and entry of the California District Court Approval Order by the California District Court approving the California District Court Settlement Components which becomes a Final Order;

3.1.7 Provide that, if the California District Court does not enter the California District Court Approval Order approving the California District Court Settlement Components in full and/or the Settlement Effective Date does not occur within 270 days after the entered Bankruptcy Approval Order first becomes a Final Order or if the California District Court Approval Order does not become a Final Order, then the Trustee may in the Trustee's sole discretion declare this Agreement null and void, in which event the provisions of Section 13.2 shall apply.

3.2 Approval by the California District Court. Promptly after the Bankruptcy Approval Order first becomes a Final Order, the Class Representatives will file a motion with the California District Court requesting entry of the California District Court Preliminary Approval Order and thereafter entry of the California District Court Approval Order approving the following components:

3.2.1 Certifying the Settlement Class for purposes of settlement only;

3.2.2 Approving the retention of the Settlement Administrator;

3.2.3 Approving the form and content of the notices to be issued by the Settlement Administrator to potential members of the Settlement Class, including notice to the Priority Subclass (as defined below) and Unsecured Subclass (as defined below) in the forms attached as **Exhibits 4 and 5**;

3.2.4 Establishing a date for the final approval hearing that complies with the notice requirements of 28 U.S.C. § 1715(d);

3.2.5 Making a final determination that this Agreement and the settlement contemplated herein is fair, reasonable, adequate, and within the range of possible approval under the standards developed pursuant to Rule 23(e)(2) of the Federal Rules of Civil Procedure;

3.2.6 Approving compensation for Class Counsel and bankruptcy co-counsel;

3.2.7 Approving service awards proposed to be made to representatives of the Settlement Class;

3.2.8 Authorizing payment pursuant to the California Private Attorneys General Act (“**PAGA**”) of \$20,000.00 (the “**PAGA Payment**”) out of the distribution to be made on account of the Allowed Priority Claim, representing payment of penalties under PAGA. Seventy-Five Percent (75%) (\$15,000) of the PAGA Payment shall be paid to the California Labor and Workforce Development Agency for its portion of the PAGA penalties and the remaining 25% (\$5,000) shall be paid to the Priority Subclass Members as part of the distribution made in accordance with Sections 4 and 6 below;

3.2.9 Establishing a procedure for members of the Priority Subclass and Unsecured Subclass to object to the settlement and to opt out of the Priority Subclass and Unsecured Subclass; and

3.2.10 Approving the method of distribution to members of the Settlement Class who are entitled to a distribution as provided herein.

(collectively, the “**California District Court Settlement Components**”).

3.3 The “**Settlement Effective Date**” shall occur on the date on which all of the following conditions have been met or, if applicable, have been waived:

3.3.1 The Bankruptcy Approval Order shall have become a Final Order;

3.3.2 The California District Court Approval Order containing the California District Court Settlement Components shall have become a Final Order;

3.3.3 The Trustee shall have given notice in accordance with 28 U.S.C. § 1715;

3.3.4 Plaintiffs shall have voluntarily dismissed the Adversary Proceeding, with prejudice; and

3.3.5 15% (952) or more members of the Settlement Class do not opt out of the settlement.

4. DISTRIBUTIONS ON ACCOUNT OF THE ALLOWED PRIORITY

CLAIM. Distributions made on account of the Allowed Priority Claim shall be allocated as follows:

4.1 Each member of the Settlement Class employed by ITT as an adjunct instructor in California at any time from March 20, 2016 through September 16, 2016 (“**Priority Subclass**”) shall be eligible to receive his or her share of the Allowed Priority Claim calculated in accordance with Section 6.1 below.

4.2 Each Class Representative shall receive up to \$5,000 for his or her efforts taken on behalf of the Priority Subclass, which shall be paid out of the Allowed Priority Claim, and shall be in addition to any distribution to which the Class Representative may otherwise be entitled under this Agreement. The payment shall not be considered wages, and the Settlement Administrator shall issue each Class Representative an IRS Form 1099 reflecting such payment.

4.3 Costs incurred and fees earned by the Settlement Administrator in connection with its administration of distributions made on account of the Allowed Priority Claim, including, but not limited to, providing the Priority Subclass with required notices, locating Priority Subclass members, processing opt out requests and objections, and calculating, administering and distributing the Allowed Priority Claim and related tax forms, shall be paid from the Allowed Priority Claim in an amount not to exceed \$13,000.

4.4 Class Counsel may apply for an award of attorneys’ fees and expenses with the fee portion not to exceed 33.33% of the Allowed Priority Claim, which will be paid out of the Allowed Priority Claim. In addition, Class Counsel may apply for out-of-pocket costs in an amount not to exceed \$25,000, which will also be paid out of the Allowed Priority Claim.

5. DISTRIBUTIONS ON ACCOUNT OF THE ALLOWED UNSECURED

CLAIM. Distributions, if any, made on account of the Allowed Unsecured Claim shall be allocated as follows:

5.1 Each member of the Settlement Class employed by ITT as an adjunct instructor in California at any time from January 12, 2012 through March 20, 2016 (“**Unsecured Subclass**”) shall be eligible to receive their share of distributions, if any, made on account of the Allowed Unsecured Claim calculated in accordance with Section 6.2 below.

5.2 Non-Income Taxes (as defined below) shall be the first deduction made out of any distributions to be made on account of the Allowed Unsecured Claim.

5.3 Each Class Representative shall receive up to \$5,000 for their efforts taken on behalf of the Unsecured Subclass, which shall be paid out of distributions, if any, made on account of the Allowed Unsecured Claim, and shall be in addition to any distribution to which the Class Representative may otherwise be entitled under this Agreement. The payment shall not be considered wages, and the Settlement Administrator shall issue each Class Representative an IRS Form 1099 reflecting such payment.

5.4 Costs incurred and fees earned by the Settlement Administrator in connection with its administration of distributions, if any, made on account of the Allowed Unsecured Claim, including, but not limited to, providing the Unsecured Subclass members with required notices, locating Unsecured Subclass members, processing opt out requests and objections, and calculating, administering and distributing amounts on account of the Allowed Unsecured Claim and related tax forms, shall be paid from the Allowed Unsecured Claim in an amount not to exceed \$13,000.

5.5 Class Counsel may apply for an award of attorneys' fees and expenses with the fee portion not to exceed 33.33% of the distributions made on account of the Allowed Unsecured Claim, which will be paid out of the Allowed Unsecured Claim. In addition, Class Counsel may apply for out-of-pocket costs in an amount not to exceed \$1,500, which will also be paid out of distributions made on account of the Allowed Unsecured Claim.

6. CALCULATIONS OF DISTRIBUTIONS TO INDIVIDUAL PRIORITY SUBCLASS AND UNSECURED SUBCLASS MEMBERS.

6.1 The amount of the Allowed Priority Claim distributable to each Priority Subclass member shall be determined after first deducting the amounts set forth in Sections 4.2 through 4.4 above from the Allowed Priority Claim. Thereafter, the Settlement Administrator will divide the remaining amount by the combined number of workweeks that all of the Priority Subclass members worked between March 20, 2016 and September 16, 2016 (the "**Weekly Priority Amount**"). The Settlement Administrator will then multiply the Weekly Priority Amount by the total number of workweeks each Priority Subclass member was employed by ITT between March 20, 2016 and September 16, 2016 to arrive at the portion of the Allowed Priority Claim distributable to each Priority Subclass member. If any Priority Subclass member opts-out of the settlement, that person's share will be added to the amount available for distribution to the other Priority Subclass members who did not opt out. The Parties acknowledge and agree that, under no circumstances can a member of the Priority Subclass receive more than \$12,850 as a claim entitled to priority pursuant to section 507(a)(4) of the Bankruptcy Code, which includes any other claims that a member of the Priority Subclass may hold even if such claims do not relate to the Class Proof of Claim.

6.2 In the event the Trustee determines there are funds of the Estate of ITT available to pay some portion of the Allowed Unsecured Claim, the Trustee will provide Class Counsel with the total amount of the distribution on the Allowed Unsecured Claim ("**Distributable Unsecured Amount**"). Thereafter, the Distributable Unsecured Amount paid to each Unsecured Subclass member, if any, will be calculated as follows: The amounts set forth in Sections 5.2 through 5.5 above will first be deducted from the Distributable Unsecured Amount. Thereafter, the Settlement Administrator will divide the remaining amount by the combined number of workweeks that all of the Unsecured Subclass members worked between January 12, 2012 and March 20, 2016 (the "**Weekly Unsecured Amount**"). The Settlement Administrator will then multiply the Weekly Unsecured Amount by the total number of workweeks each Unsecured Subclass member was employed by ITT between January 12, 2012 and March 20, 2016 to arrive at the portion of the Distributable Unsecured Amount distributable to each Unsecured Subclass

member. If any Unsecured Subclass member opts-out of the settlement, that person's share will be added to the amount available for distribution, if any, to the other Unsecured Subclass members who did not opt out.

6.3 The Trustee will make a good faith effort to provide the Settlement Administrator with access to the ITT data reasonably necessary to perform the calculation of the number of workweeks for each member of the Priority Subclass and Unsecured Subclass and other reasonably required information the Settlement Administrator requests to perform the calculations required under this Agreement or to respond to disputes received from members of the Priority Subclass and Unsecured Subclass related to the calculations (collectively, the "**ITT Data**"); provided, however, the Trustee shall not be required to incur expenses (excluding the Trustee's attorneys' fees) in providing access to the ITT Data in an amount that exceeds \$15,000.00. If the Trustee determines that the estimated expenses for providing access to the ITT Data exceeds \$15,000.00, then the Trustee will notify Class Counsel, who shall then make a determination as to whether such expense is necessary, and Class Counsel and the Trustee shall attempt to reach a mutually agreeable expense-sharing arrangement. In the absence of any agreement regarding the sharing of the expense for providing access to the ITT Data, then the Trustee may in the Trustee's sole discretion declare this Agreement null and void, in which event the provisions of Section 13.2 shall apply. The Trustee shall have no responsibility for the calculation of any amounts that may be distributable to the members of the Priority Subclass and Unsecured Subclass (or the formulas used to arrive at those calculations) under this Agreement or any other payments made pursuant to this Agreement.

6.4 **TAXES ASSOCIATED WITH DISTRIBUTIONS.** The Settlement Administrator will establish a Qualified Settlement Fund in accordance with Section 468B of the Internal Revenue Code for all settlement funds distributed pursuant to this Agreement. The Trustee will report distributions constituting wages/back pay and pay any Unemployment Insurance, Employment Training Tax, and State Disability Insurance to the appropriate taxing authorities ("**Non-Income Taxes**"). All Non-Income Taxes paid by the Trustee will be deducted from any distributions made on account of the Allowed Unsecured Claim. The Settlement Administrator shall report Personal Income Tax wages/back pay and withhold Personal Income Tax from the payments. The members of the Settlement Class who receive payments from the Settlement Administrator shall be solely responsible for the payment of any and all other individual tax obligations associated with the amounts received.

7. **TREATMENT OF DISTRIBUTIONS.** With respect to each member of the Settlement Class, one-third (1/3) of each distribution each class member receives shall constitute wages in the form of wages/back pay (and each member of the Settlement Class will be issued an IRS Form W-2 from the Settlement Administrator for such payment to him or her), one-third (1/3) shall constitute interest, and one-third (1/3) shall constitute penalties (and each member of the Settlement Class will be issued an IRS Form 1099 from the Settlement Administrator for such payment to him or her).

8. NOTICE TO SETTLEMENT CLASS.

8.1 **Class List.** Within fifteen (15) calendar days after the California District Court enters a preliminary order approving the California District Court Settlement Components, the Trustee will forward a class list to the Settlement Administrator, with the last known contact information.

8.2 **Distribution of the Notice Packet.** Within thirty (30) calendar days after the California District Court enters a preliminary order approving the California District Court Settlement Components, the Settlement Administrator will distribute the Notice in substantially the same forms, subject to California District Court approval, attached as **Exhibits 4 (“Class Notice”)** to the Priority Subclass and Unsecured Subclass members. In the event that any Class Notices are returned without a forwarding address, the Settlement Administrator will conduct a standard skip trace to ascertain the current address for the particular member and resend the Class Notice to the new address within five (5) calendar days of the date on which the Settlement Administrator is informed that a Class Notice is undeliverable or is otherwise invalid.

8.3 **Duties of the Settlement Administrator.** The Settlement Administrator will be responsible for mailing the Class Notices, handling inquiries from members of the Settlement Class concerning the Class Notices, calculating amounts distributable to members of the Settlement Class, maintaining the settlement funds in an appropriate interest-bearing account, preparing, administering and distributing any and all amounts to members of the Settlement Class, issuing a final report and performing such other duties as the Parties may direct.

8.4 **Opt Out Procedure.** In order to opt out of the settlement, a member of the Settlement Class must submit a letter or postcard to the Settlement Administrator, postmarked no later than sixty (60) days following the date on which the Settlement Administrator first mails the Class Notice to that member (**“Response Deadline”**) in accordance with the instructions in the Class Notice. A member of the Settlement Class may also send an email to the Settlement Administrator no later than the Response Deadline, in accordance with the instructions in the Class Notice. The opt out request must state the Settlement Class member’s name, address, telephone number and signature and a statement that the Settlement Class member wishes to opt out, except in the case of an opt out request submitted by email, which will be deemed signed by the submitting member of the Settlement Class. Any opt out request that is not postmarked by the Response Deadline will be invalid. Those Settlement Class members who do not timely and validly opt out will be bound by the release set forth herein, will be deemed to participate in the settlement and shall become a settlement participant without having to take any other action.

8.5 **Objections.** Any Class Member may object to the proposed settlement, or any portion thereof, by mailing a written objection, and supporting papers, if any, to the Settlement Administrator at the address set forth in the Class Notices. To be timely, objections must be postmarked no later than the Response Deadline. A written objection must contain the objecting person’s full name, the case name and number, and each specific reason in support of the objection. A Class Member who desires to object but

who fails to comply with the time and objection procedure set forth herein shall be deemed to have not objected, which means they will be bound by the release of the Trustee set forth herein, will be deemed to participate in the settlement and shall become a participant in the settlement. Any Settlement Class member who files an objection remains eligible to receive monetary compensation from the settlement.

8.6 **Dispute Procedure.** Settlement Class members may dispute their workweeks worked if they believe they worked more or less workweeks than ITT's records show by submitting information to the Settlement Administrator no later than the Response Deadline. The Settlement Administrator will jointly work with the Parties to resolve the dispute in good faith. ITT's records will be presumed determinative, unless the Settlement Class member produces payment stubs, wage statements or other documents which conflict with ITT's records. If the Parties cannot agree over the workweeks to be credited, the Settlement Administrator shall make the final decision based on the information presented by the Settlement Class member and ITT's records.

8.7 **Contradictory Forms.** If a Settlement Class member submits both a timely opt out and a timely objection, only the objection shall be given effect and the Settlement Class member will remain in the Settlement Class.

9. **PAYMENT PROCEDURE**

9.1 **Funding the Qualified Settlement Fund.**

9.1.1 No later than 10 days after the Settlement Effective Date, the Trustee shall deposit into the Qualified Settlement Fund \$520,000 for the Allowed Priority Claim.

9.1.2 As soon as reasonably practicable after the Qualified Settlement Fund is funded with the Allowed Priority Claim amount, it shall be distributed by the Settlement Administrator, according to the distributions provided for in Sections 4 and 6 above.

9.1.3 Any distribution on account of the Allowed Unsecured Claim will be made in the normal course of the Trustee's administration of the Estate of ITT. At such time as the Trustee is authorized to make a distribution, if any, on account of the Allowed Unsecured Claim, the Trustee will provide Class Counsel with the total pro-rated amount available for distribution, if any, on account of the Allowed Unsecured Claim, and the Trustee shall deposit into the Qualified Settlement Fund the amount determined available for distribution.

9.1.4 As soon as reasonably practicable after the Qualified Settlement Fund is funded with the Allowed Unsecured Claims amount, if any, it shall be distributed by the Settlement Administrator, according to the distributions provided for in Sections 5 and 6 above.

9.2 **Uncashed Payments.**

9.2.1 If the funds in the Qualified Settlement Fund deposited for the Allowed Priority Claim remain undistributed and unused for any reason after the date of issuance of payments to Priority Subclass members, including checks that were not deposited, endorsed or negotiated within six (6) months, the Settlement Administrator shall contribute the residual funds to a charitable beneficiary selected mutually by the Parties.

9.2.2 If the funds in the Qualified Settlement Fund deposited for the Allowed Unsecured Claim remain undistributed and unused for any reason after the date of issuance of payments to Unsecured Subclass members, including checks that were not deposited, endorsed or negotiated within six (6) months, the Settlement Administrator shall contribute the residual funds to a charitable beneficiary selected mutually by the Parties.

10. RELEASES

10.1 **Release by the Settlement Class.** Except for the rights, duties, and obligations created by this Agreement, effective upon the Settlement Effective Date, Plaintiffs, the Class Representatives and the Settlement Class (including the Priority Subclass and Unsecured Subclass) hereby release and discharge the Trustee, as Trustee and in her individual capacity, all professionals engaged by the Trustee on her behalf and on behalf of the Debtors, the Debtors, and the Estate of each and all of the Debtors, and all successors and assigns thereof, from any and all claims, demands, obligations, damages, action, or causes of action, in law or in equity, whether sounding in tort or contract, or based on federal or state law, and whether known or unknown, which Plaintiffs, the Class Representatives and the Settlement Class (including the Priority Subclass and Unsecured Subclass), or any one or more of them, have or may have against the Trustee, the Debtors and the Estate of each and all of the Debtors, for any reason whatsoever existing prior to or as of the Settlement Effective Date based on the facts alleged in the California Class Action, Class Proof of Claim, Class Priority Claim, PAGA Proof of Claim, and/or Adversary Proceeding. Members of the Settlement Class who do not opt out in accordance with Section 8.4 above will be deemed to have acknowledged and agreed that the payments received under this Agreement constitute payment of all sums allegedly due to them. Members of the Settlement Class will be deemed to have acknowledged and agreed that California Labor Code Section 206.5 is not applicable to the payments received under this Agreement. That section provides in pertinent part as follows:

“An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made.”

10.2 **Unknown Claims.** The releases provided for in this Agreement extend to claims based on the facts alleged in the California Class Action, Class Proof of Claim, Class Priority Claim, PAGA Proof of Claim, and/or Adversary Proceeding, that Plaintiffs, the Class Representatives, the Settlement Class, or members of the Settlement Class (including the Priority Subclass and Unsecured Subclass) do not know or suspect to exist at the time of the release, which if known, might have affected the decision to enter into the release (“**Unknown Claims**”). In releasing the Unknown Claims, Plaintiffs, the Class

Representatives and the Settlement Class (including the Priority Subclass and Unsecured Subclass) expressly waive (and each Settlement Class member by operation of law shall be deemed to waive) any and all protections, provisions, rights and benefits conferred by any law of the United States or any state or territory of the United States, or principle of common law, which governs or limits a person's release of Unknown Claims, including Section 1542 of the California Civil Code. Section 1542 of the California Civil Code provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

The Parties acknowledge and understand (and each Settlement Class member by operation of law shall be deemed to acknowledge) the significance of these waivers of California Civil Code Section 1542 and/or of any other applicable law relating to limitations on releases of Unknown Claims. In connection with such waivers and relinquishment, the Parties acknowledge (and each Settlement Class member by operation of law shall be deemed to acknowledge) that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they now know or believe to be true with respect to the subject matter of the Agreement, but that they release fully, finally and forever all Unknown Claims, and in furtherance of such intention, the release will remain in effect notwithstanding the discovery or existence of any such additional or different facts. The Parties acknowledge (and all Settlement Class members by operation of law shall be deemed to acknowledge) that the release of Unknown Claims as set forth herein was separately bargained for and was key element of the settlement.

11. REPRESENTATIONS AND WARRANTIES

The Parties hereby represent and warrant to each other the following, each of which is a continuing representation and warranty:

11.1 Each of the Parties is the sole and lawful owner of all right, title, and interest in and to every claim and other matter purported to be released herein. None of the Parties has assigned or transferred, or purported to assign or transfer, to any person or entity any claims or other matters herein released.

11.2 Except as otherwise expressly provided in this Agreement, no consent or approval is required by any other person or entity (other than the Bankruptcy Court and California District Court) in order for the Parties to carry out the provisions of this Agreement and the Parties (subject to approvals of the Bankruptcy Court and California District Court) have obtained all necessary approvals to enter into and perform the obligations under this Agreement.

11.3 Each of the Parties has received, or has had the ability to obtain, independent legal advice from attorneys of their choice with respect to the advisability of

making the agreements provided herein and with respect to the advisability of executing this Agreement.

11.4 Except as otherwise expressly stated in this Agreement, the Parties have not made any statement or representation to the other regarding any facts relied upon by them in entering into this Agreement, and each of them specifically does not rely upon any statement, representation or promise of the other Party or any other person in entering into this Agreement, except as expressly stated in this Agreement. Each Party has relied upon its own investigation and analysis of the facts and not on any statement or representation made by any other Party in choosing to enter into this Agreement and the transactions contemplated herein.

11.5 The Parties and their respective attorneys have made such investigation of the facts pertaining to this Agreement and all of the matters pertaining thereto, as they deem necessary.

12. MISCELLANEOUS

12.1 The Trustee will incur and pay the expense of providing notice, as required by the Bankruptcy Court's Case Management and Administrative Procedures approved on October 4, 2016 in the Bankruptcy Case, of the Motion for Authority to Enter into the Settlement pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure. Plaintiffs will bear all other expenses pertaining to securing approval of the settlement from the California District Court.

12.2 Counsel for Plaintiffs shall provide the Trustee with the names of all members of the Settlement Class who receive a distribution on the Class Priority Claim, along with the amount of the distribution.

12.3 The California Class Action may remain pending only for purposes of consummating the settlement set forth therein and shall be dismissed by Plaintiffs, with prejudice, once performance under this Agreement has been completed.

13. BANKRUPTCY AND CALIFORNIA DISTRICT COURT APPROVALS

13.1 **Approvals.** This Agreement is subject to and conditioned upon (a) entry of the Bankruptcy Approval Order that is a Final Order; and (b) entry of the California District Court Approval Order containing the California District Court Settlement Components that is a Final Order.

13.2 **Return to Status Quo Ante.** In the event any of the approvals set forth in Section 13.1 are not obtained or any of the other conditions to the Settlement Effective Date are not met, this Agreement and the conditional class certification shall be of no further force and effect and the Parties shall be returned to status quo ante as of the date of this Agreement, as if no Agreement had been negotiated or executed. Moreover, the Parties shall be deemed to have preserved all of their rights and defenses of any kind that they may have had against each other and any other person.

13.3 **Cooperation.** The Parties agree to use reasonable efforts to support the entry of the orders set forth in Section 13.1. The Parties further agree not to cause any other person or entity to object to or otherwise oppose the entry of the orders set forth in Section 13.1. Each of the Parties shall promptly and in good faith execute all documents and perform all acts necessary and proper to effectuate the terms of this Agreement; provided, however, that nothing in this Section requires either Party to waive any of the conditions to the Settlement Effective Date.

14. MISCELLANEOUS

14.1 **Entire Agreement, Amendments, and Waivers.** This Agreement constitutes and contains the entire agreement between the Parties and supersedes any and all prior negotiations, conversations, correspondence, understandings, and letters respecting the settlement of the California Class Action and Adversary Proceeding. This Agreement may be amended or modified or one or more provisions hereof waived only by a written instrument signed by the Parties. No delay or omission by any Party in exercising any right or power arising from any default by the other Party shall be construed as a waiver of such default, nor shall any single or partial exercise thereof preclude any further exercise thereof or the exercise of any other right or power arising from any default by a party. No waiver of any breach of any covenant or other condition shall be construed to be a waiver of or consent to any previous or subsequent breach of the same or of any other covenant or condition.

14.2 **Captions.** The captions to this Agreement are for convenience only and are to be of no force or effect in construing and interpreting the provisions of this Agreement.

14.3 **Jurisdiction, Governing Law.** This Agreement shall be interpreted, enforced and governed by the laws of the State of Indiana, without regard to choice of law principles. The Parties further agree that any dispute arising out of this Agreement shall be adjudicated in the Bankruptcy Court and the Bankruptcy Court shall retain the ability to approve and enforce this Agreement to the full extent of the Bankruptcy Court's jurisdiction.

14.4 **Notices.** Any notice required or permitted under this Agreement shall be given in writing and shall be sent to the following Parties via electronic mail with a copy sent by overnight mail or hand delivery:

To the Plaintiffs:

Julian A. Hammond
Polina (*formerly* Pecherskaya) Brandler
HAMMONDLAW, P.C.
1829 Reisterstown Rd. Suite 410
Baltimore, MD 21208
jhammond@hammondlawpc.com
pbrandler@hammondlawpc.com

To the Trustee:

James E. Rossow Jr.
Joshua W. Casselman
RUBIN & LEVIN, P.C.
135 N. Pennsylvania Street, Suite 1400
Indianapolis, Indiana 46204
jim@rubin-levin.net
jcasselman@rubin-levin.net

14.5 **No Party Deemed Drafter.** The Parties shall jointly be deemed to be the drafters of this Agreement. The rule that any ambiguity in a contract shall be construed against the drafter of the contract shall not apply to this Agreement.

14.6 **Voluntary Settlement.** The Parties acknowledge and agree that each of them is entering into this Agreement freely and voluntarily and not acting under any misapprehension as to the effect hereof, and has acted and does hereby act freely and voluntarily and not under any coercion or duress.

14.7 **No Mistake of Fact or Law.** In entering into this Agreement, each Party recognizes that no facts or representations are ever absolutely certain. Accordingly, each Party assumes the risk of any mistake, and if it should subsequently discover that any understanding of the facts or of the law was incorrect, each Party understands and expressly agrees that it shall not be entitled to set aside this Agreement by reason thereof, regardless of any mistake of fact or law.

14.8 **Binding Agreement.** This Agreement is binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, personal representatives, predecessors, successors, and assigns.

14.9 **Counterparts.** This Agreement may be executed in multiple counterparts and by facsimile and/or by e-mail, and all executed counterparts together shall constitute the original instrument. Faxed or emailed signatures shall be binding.

14.10 **Settlement of Disputed Claims.** Nothing in this Agreement shall be construed as or deemed to be an admission by any Party of any liability, culpability, negligence, or wrongdoing toward any other Party, or any other person, and the Parties specifically disclaim any liability, culpability, negligence, or wrongdoing toward the each other or any other person.

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

IN WITNESS WHEREOF, the Parties have executed this Agreement.

[Signatures appear on the following page.]

Plaintiffs:

SEAN MINER

Date: _____

DAVID HEUMANN

Date: _____

SHAWNA ADMIRE

Date: _____

Trustee:


DEBORAH J. CARUSO, not individually
but as Trustee for ITT Educational Services,
Inc.

Date: August 18, 2020

Plaintiffs:

SEAN MINER

Date:_____

David Heumann

DAVID HEUMANN

Date: 7/29/2020

SHAWNA ADMIRE

Date:_____

Trustee:

DEBORAH J. CARUSO, not individually
but as Trustee for ITT Educational Services,
Inc.

Date:_____

Plaintiffs:

Sean Miner

SEAN MINER

Date: 7/29/2020

DAVID HEUMANN

Date: _____

SHAWNA ADMIRE

Date: _____

Trustee:

DEBORAH J. CARUSO, not individually
but as Trustee for ITT Educational Services,
Inc.

Date: _____

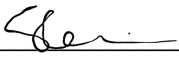
Plaintiffs:

SEAN MINER

Date:_____

DAVID HEUMANN

Date:_____



SHAWNA ADMIRE

Date: 7/29/2020

Trustee:

DEBORAH J. CARUSO, not individually
but as Trustee for ITT Educational Services,
Inc.

Date:_____

EXHIBIT 1 - Bankruptcy Approval Order

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

IN RE:)
)
ITT EDUCATIONAL SERVICES, INC., *et al.*¹) Case No. 16-07207-JMC-7A
)
Debtors.) Jointly Administered

**ORDER GRANTING TRUSTEE’S MOTION TO COMPROMISE AND
SETTLE CLAIMS OF CALIFORNIA ADJUNCT INSTRUCTOR CLASS ACTION**

This matter is before the Court on the *Trustee’s Motion to Compromise and Settle Claims of California Adjunct Instructor Class Action* (the “Motion”) [Doc ____], filed by Deborah J. Caruso, the chapter 7 trustee (the “Trustee”)² in the above-captioned cases of ITT Educational Services, Inc. (“ITT”), *et al.* (collectively, the “Debtors”). The Court, being duly advised in the premises and noting that no objections were filed to the Motion, or if filed were withdrawn

¹ The debtors in these cases, along with the last four digits of their respective federal tax identification numbers, are ITT Educational Services, Inc. [1311]; ESI Service Corp. [2117]; and Daniel Webster College, Inc. [5980].

² Capitalized terms used but not defined herein have the meanings given to them in the Class Action Settlement (as defined in the Motion).

prior to the entry of this Order, determines that the Motion should be GRANTED. It is
HEREBY FOUND and ORDERED that:

1. The Trustee is authorized to take all action required to comply with the Class
Action Settlement, the terms of which are approved and incorporated in this Order as **Exhibit A**.

2. The Class Action Settlement satisfies the standards developed under Bankruptcy
Rule 9019; provided however, the Class Action Settlement is conditioned upon entry of a
preliminary order an entry of the California District Court Approval Order by the California
District Court approving the California District Court Settlement Components which becomes a
Final Order.

3. The automatic stay provided by section 362 of Title 11 of the United States Code
(the “Bankruptcy Code”) is hereby lifted to permit the California District Court to consider the
California District Court Settlement Components, including the following matters:

- a. Certification of the Settlement Class for settlement purposes only;
- b. Approval of the retention of a Settlement Administrator;
- c. Approval of the form and content of proposed notices to be issued
by the Settlement Administrator to potential members of the Settlement Class;
- d. Establishment of a date for a final approving hearing that complies
with the notice requirements of 28 U.S.C. § 1715(d);
- e. Convening a hearing and make a final determination that the Class
Action Settlement is fair, reasonable, adequate, and within the range of possible
approval under the standards developed by Rule 23(e)(2) of the Federal Rules of
Civil Procedure;
- f. Approval of compensation for Class Counsel and bankruptcy co-
counsel; and
- g. Approval of service awards proposed to be made to representatives
of the Settlement Class.

The stay provided by section 362 of the Bankruptcy Code shall remain in effect as to all other matters that are the subject of the Adversary Proceeding, property of the Debtors' bankruptcy estates, or the Trustee administration of these chapter 7 cases.

4. The Trustee shall file a notice in the Bankruptcy Case notifying the Court of the Settlement Effective Date and will serve such notice on all members of the Settlement Class. In the event the California District Court does not enter a Final Order approving the California District Court Settlement Components in full within 270 days following the date this Order becomes a Final Order, then the Trustee may in the Trustee's sole discretion declare the Class Action Settlement null and void, and the Adversary Proceeding shall proceed as set forth in section 13.2 of the Class Action Settlement. In such an event, the Trustee shall file notice in the Bankruptcy Case declaring the Class Action Settlement null and void and serve such notice on all members of the Settlement Class.

5. As of the Settlement Effective Date:

a. The Class Priority Claim shall be allowed in the aggregate amount of \$520,000.00 on an "all-in" non-reversionary basis, with such allowance being a priority claim pursuant to section 507(a)(4) of the Bankruptcy Code ("Allowed Priority Claim").

b. The Class Unsecured Claim shall be allowed in the aggregate amount of \$4,500,000.00 as a pre-petition general unsecured claim ("Allowed Unsecured Claim").

c. All other amounts asserted in the Class Proof of Claim shall be disallowed with prejudice.

d. The PAGA Proof of Claim shall be disallowed with prejudice pursuant to Bankruptcy Rule 3007(d)(1), as it is duplicative of the Class Proof of Claim.

e. All Adjunct Instructors' Proofs of Claim, except to the extent an Adjunct Instructor opts out of the Settlement Class, shall be disallowed with prejudice to the extent such claims encompass the matters asserted in the Class Proof of Claim or the PAGA Proof of Claim, including, but not limited to, the facts alleged in the California Class Action and the grounds for recovery asserted in any of the foregoing.

6. The Trustee is authorized in accordance with the Class Action Settlement to distribute the Allowed Priority Claim following the Settlement Effective Date. To the extent required, the Trustee is authorized to make this distribution via wire transfer.

7. The Court shall retain jurisdiction to interpret, implement and enforce the terms of this Order.

###

Exhibit 2-A – California District Court Preliminary Approval Order

1 Julian Hammond, (CA State Bar No. 268489)
jhammond@hammondlawpc.com
2 Polina Brandler (f/k/a/ Pecherskaya) (CA State Bar No. 269086)
pbrandler@hammondlawpc.com
3 Ari Cherniak (CA State Bar No. 290071)
acherniak@hammondlawpc.com
4 HAMMONDLAW, P.C.
5 1829 Reisterstown Rd. Suite 410
Baltimore, MD 21208
6 Telephone: (310) 601-6766
7 Facsimile: (310) 295-2385

8
9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA (SAN FRANCISCO)

12 **SEAN MINER, DAVID HEUMANN, and**
13 **SHAWNA ADMIRE**, individually and on behalf
14 of all others similarly situated,

15 Plaintiffs,

16 vs.

17 **ITT EDUCATIONAL SERVICES, INC.**, a
Delaware corporation,

18 Defendant.
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28

Case No.: 3:16-cv-04827-VC

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: _____, 2020

Time: _____

Courtroom: 4 – 17th Floor

Judge: Hon. Vince Chhabria

Complaint Filed: July 20, 2016

1 Plaintiffs have filed a Motion for Preliminary Approval of the class action settlement reached
2 with the chapter 7 Trustee for the Bankruptcy Estate of ITT Educational Services, *et al.*, Deborah J.
3 Caruso (“Trustee”), a hearing on which was held on _____, 2020. The Court’s scrutiny of
4 the proposed Settlement has been as rigorous at the preliminary stage as it will be at the final approval
5 stage. *See Cotter v. Lyft, Inc.*, 193 F. Supp. 3d 1030, 1036-37 (N.D. Cal. 2016). In accordance with
6 that level of scrutiny, the Court has carefully considered the Settlement Agreement, all the filings
7 related to the Settlement, including the Approval Order of the Bankruptcy Court, the arguments of
8 counsel, and the record in this case. The Court hereby gives its preliminary approval of the Settlement;
9 finds that the Settlement and Settlement Agreement are sufficiently fair, reasonable and adequate to
10 allow dissemination of notice of the Settlement to the Settlement Class, including the Priority Subclass
11 and the Unsecured Subclass, in accordance with the Settlement Agreement and this Order; and
12 schedules a Final Approval Hearing to determine whether the proposed Settlement is fair, adequate and
13 reasonable.

14 **IT IS HEREBY ORDERED THAT:**

15 **I. PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

16 1. All defined terms contained herein shall have the same meanings as set forth in the
17 Class Action Settlement Agreement executed by the Settling Parties and filed with this Court (the
18 “Settlement Agreement”).

19 2. The Court finds that the requirement of Rules 23(a)(1)-(4), 23(b), 23(c)(4), and 23(e) of
20 the Federal Rules of Civil Procedure have been satisfied for purposes of preliminary approval of the
21 Class Action Settlement and the Settlement Agreement, such that notices of the Class Action
22 Settlement and the Settlement Agreement should be directed to the Priority Subclass members and
23 Unsecured Subclass members and a Final Approval Hearing should be set.

24 3. The Class Action Settlement and the Settlement Agreement are preliminarily approved
25 by the Court.

26 **II. FINDINGS REGARDING THE SETTLEMENT CLASS AND SUBCLASSES**

27 4. The Settlement Class is defined as “All individuals who were at any time employed by
28 ITT as adjunct instructors in California from January 12, 2012 through September 16, 2016.”

1 5. The Settlement Class consists of two Subclasses.

2 a. Priority Subclass consists of “each member of the Settlement Class employed by ITT as
3 an adjunct instructor in California at any time from March 20, 2016 through September
4 16, 2016.”

5 b. Unsecured Subclass consists of “each member of the Settlement Class employed by ITT
6 as an adjunct instructor in California at any time from January 12, 2012 through March
7 19, 2016.”

8 6. Pursuant to Fed. R. Civ. P. 23(a) and (b)(3), the Court certifies, for settlement purposes
9 only, the Settlement Class and the Subclasses.

10 7. The Court finds, for settlement purposes only, that the Action may be maintained as a
11 class action on behalf of the Settlement Class because:

12 a. Numerosity: Based on ITT’s records there are approximately 1,154 individuals who are
13 members of the Settlement Class, approximately 564 of whom are members of the Priority Subclass,
14 and approximately 1,136 of whom are members of the Unsecured Subclass. This satisfies the Rule
15 23(e)(1) numerosity requirement.

16 b. Commonality: The threshold for commonality under Rule 23(a)(2) is not high and a
17 single common issue will suffice. Plaintiffs allege, among other things, that the members of the
18 Settlement Class were paid on a piece-rate basis and ITT was therefore required under the California
19 Labor Code but failed to pay them separately and hourly for nonproductive time and rest break time.
20 Plaintiffs also alleged that, even if their fixed per course compensation is not considered a piece rate,
21 the members of the Settlement Class are also non-exempt as they earned less than the salary basis test
22 required for an employee to be exempt in California. *See* IWC Wage Order No. 4-2001, § 1. As a
23 result, ITT was required under the California Labor Code to pay them for all hours worked and to
24 provide them with off-duty rest breaks, which it also failed to do. Plaintiffs allege this creates a
25 uniform right to relief for all members of the Settlement Class.

26 c. Typicality: Named Plaintiffs’ claims are typical of the claims of the Settlement Class
27 members and satisfy Rule 23(a)(3).

28 d. Adequacy: There are no conflicts of interest between the Class Representatives and
Settlement Class members and Class Representatives have retained competent counsel and bankruptcy

1 co-counsel to represent the Settlement Class. Class Counsel regularly engages in complex litigation
2 similar to the present case and have dedicated substantial resources to the prosecution of this matter.
3 The adequacy requirement is satisfied.

4 e. Predominance and Superiority: there is predominance and superiority. A class action is
5 superior to other available methods for the fair and efficient adjudication of this controversy. The
6 common legal and factual issues listed in the preliminary approval papers all predominate over other
7 issues. Resolution of the common question constitutes a significant part of Plaintiffs' and Settlement
8 Class members' claims.

9 8. The Court appoints as class representatives, for settlement purposes only, named
10 Plaintiffs Sean Miner, Shawna Admire, and David Heumann. The Court finds, for settlement purposes
11 only, that the named Plaintiffs will adequately represent the Settlement Class.

12 9. Pursuant to Federal Rule of Civil Procedure 23(g), and for settlement purposes only, the
13 Court designates as Class Counsel the law firm of HammondLaw, P.C. The Court preliminarily finds
14 that, based on the work Class Counsel has done identifying, investigating, and prosecuting the claims
15 in this Action; Class Counsel's experience in handling class actions and claims of the type asserted in
16 this Action; and the resources Class Counsel has and will commit to representing the Class, that Class
17 Counsel have represented and will represent the interests of the Settlement Class fairly and adequately.

18 **III. FINDINGS REGARDING THE CLASS ACTION SETTLEMENT AND THE**
19 **SETTLEMENT AGREEMENT**

20 10. Plaintiffs have provided sufficient information, including the Motion for Preliminary
21 Approval and related submissions and presentations, "to allow the district court to carefully evaluate
22 the strength of the claims, the risks of litigating those claims all the way through, and the value of the
23 relief each class member will receive from the settlement." *Cotter*, 193 F. Supp. 3d at 1036-37. The
24 proposed Class Action Settlement and the Settlement Agreement were reached between Plaintiffs and
25 the Trustee for the Defendant ITT's bankruptcy estate. The Settlement provides a substantial benefit
26 for the Priority Subclass, the members of which have a priority claim pursuant to section 507(a)(4) of
27 the Bankruptcy Code for their unpaid wages incurred during the six-month period preceding the ITT's
28 filing for bankruptcy. The Settlement also provides a substantial benefit in the form of an allowed

1 claim for the Unsecured Subclass, whose claims do not have priority in bankruptcy. The Settlement is
2 the product of intensive, thorough, serious, informed, and non-collusive negotiations assisted by the
3 Hon. Steven Rhodes (Ret.); has no obvious deficiencies; does not improperly grant preferential
4 treatment to the Class Representatives, or segments of the Subclasses; and is fair, reasonable, and
5 adequate. Accordingly, the Court has taken the Rule 23(e)(2) factors and applicable precedent into
6 account in finding that it will likely be able to approve the proposed Class Action Settlement and the
7 Settlement Agreement as fair, reasonable, and adequate.

8 **IV. NOTICE TO THE SETTLEMENT CLASS, INCLUDING PRIORITY SUBCLASS AND**
9 **UNSECURED SUBCLASS AND OPT OUT AND OBJECTION PROCEDURES**

10 11. The Court appoints Simpluris, Inc. as the Settlement Administrator, which shall
11 administer the Settlement in accordance with the terms and conditions of this Order and the Settlement
12 Agreement.

13 12. The Court finds that the proposed Class Notice (Exhibit 4 to the Settlement
14 Agreement) and the proposed plan of distribution of the Class Notice meets the requirement of Federal
15 Rule of Civil Procedure 23(c)(2)(B), and hereby directs the Settlement Administrator to proceed with
16 the notice distribution in accordance with the terms of the Settlement Agreement.

17 13. Any Settlement Class members who wish to opt out from the Settlement Agreement
18 must do so within 60 days following the date on which the Settlement Administrator first mails the
19 Class Notice and in accordance with the terms of the Settlement Agreement.

20 14. Any Settlement Class members who wish to object to the Settlement Agreement must
21 do so within 60 days following the date on which the Settlement Administrator first mails the Class
22 Notice and in accordance with the terms of the Settlement Agreement.

23 15. The Court finds that the Notice plan, including the form, content, and method of
24 dissemination of the Class Notices to the Settlement Class, including the Priority Subclass and the
25 Unsecured Subclass, as described in the Settlement Agreement, is the best practicable notice, is
26 reasonably calculated under the circumstances to apprise the Settlement Class members of the
27 pendency of the lawsuits and the Settlement and of their right to object to or exclude themselves from
28 the proposed Settlement. The Court finds that it is reasonable and constitutes due, adequate, and

1 sufficient notice to all persons entitled to receive notice, and meets all applicable requirements of
2 Federal Rules of Civil Procedure 23 and due process.

3 16. The Court approves the procedures set forth in the Settlement Agreement and the
4 notices of Settlement of Class Action for exclusion from and objections to the Settlement.

5 **V. FINAL APPROVAL HEARING**

6 17. The Court directs a hearing be scheduled on _____ at _____ a.m./p.m. (the
7 “Final Approval Hearing”) to assist the Court in determining whether the Settlement is fair, reasonable
8 and adequate; whether the claims asserted in this California Class Action and the Adversary
9 Proceeding should be dismissed with prejudice; whether Class Counsel’s application of fees and
10 expenses from the Allowed Priority Claim, including fees and expenses of bankruptcy co-counsel,
11 should be approved; whether Class Counsel’s request for service awards to the Class Representatives
12 from the Allowed Priority Claim should be approved; and whether the payment of penalties pursuant
13 to PAGA to the LWDA from the Allowed Priority Claim should be approved. Plaintiff shall file a
14 motion for final approval of the Settlement no later than 14 days before the Final Approval Hearing.

15 18. Plaintiffs may file motions for attorneys’ fees, costs, and class representative service
16 awards from the Allowed Priority Claim. Such motions shall be filed no later than 14 days before the
17 deadline for objecting to the settlement.

18 19. If the Settlement is not finally approved, including approval of the California District
19 Court Settlement Components as defined in the Settlement Agreement, is terminated under its terms, or
20 if the Settlement Effective Date does not occur, then the Parties will return to status quo ante as of the
21 date of the Settlement Agreement, as if no Agreement had been negotiated or executed. The Parties
22 shall be deemed to have preserved all of their rights and defenses of any kind that they may have had
23 against each other and any other person.

24 20. The Court directs that the following deadlines are established by this Preliminary
25 Approval Order:

- 26 a. Notice Date: 30 days of this Preliminary Approval Order
- 27 b. Opt-out Deadline: 60 days after the Notice Date
- 28 c. Objection Deadline: 60 days after the Notice Date

d. Final Approval Hearing: _____ at _____ a.m./p.m.

IT IS SO ORDERED.

Dated: _____

HON. VINCE CHHABRIA
UNITED STATES DISTRICT COURT

EXHIBIT 2-B – California District Court Approval Order

1 Julian Hammond, (CA State Bar No. 268489)
jhammond@hammondlawpc.com
2 Polina Brandler (f/k/a/ Pecherskaya) (CA State Bar No. 269086)
pbrandler@hammondlawpc.com
3 Ari Cherniak (CA State Bar No. 290071)
acherniak@hammondlawpc.com
4 HAMMONDLAW, P.C.
5 1829 Reisterstown Rd. Suite 410
Baltimore, MD 21208
6 Telephone: (310) 601-6766
7 Facsimile: (310) 295-2385

8
9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA (SAN FRANCISCO)

12 **SEAN MINER, DAVID HEUMANN, and**
13 **SHAWNA ADMIRE**, individually and on behalf
14 of all others similarly situated,

15 Plaintiffs,

16 vs.

17 **ITT EDUCATIONAL SERVICES, INC.**, a
Delaware corporation,

18 Defendant.
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Case No.: 3:16-cv-04827-VC

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTIONS FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND FOR ATTORNEYS'
FEES, COSTS, AND SERVICE AWARDS**

Date: _____

Time: _____

Courtroom: 4 – 17th Floor

Judge: Hon. Vince Chhabria

Complaint Filed: July 20, 2016

1 Plaintiffs' Motion for Final Approval of Class Action Settlement and Motion for Attorneys'
2 Fees, Costs, and Service Awards, came on for hearing on _____ at _____ a.m./p.m. in
3 Courtroom 4 of the above captioned court, the Honorable Vincent Chhabria presiding. HammondLaw,
4 P.C. appeared on behalf of Plaintiffs Sean Miner, David Heumann, and Shawna Admire ("Plaintiffs")
5 and Rubin & Levin appeared on behalf of the chapter 7 Trustee for the Bankruptcy Estate of ITT
6 Educational Services, *et al.*, Deborah J. Caruso ("Trustee").

7 The parties have submitted their Settlement, which this Court preliminarily approved by its
8 order entered on _____, 2020 (Dkt. ____). In accordance with the preliminary approval order,
9 members of both Subclasses have been given notice of the terms of the Settlement and the opportunity
10 to object to it or to exclude themselves from its provisions.

11 Having received and considered the Settlement, the supporting papers filed by the parties, and
12 the evidence and argument received by the Court at the hearing before it entered the Preliminary
13 Approval Order and at the final approval hearing on _____, the Court grants final approval of
14 the Settlement, and HEREBY ORDERS and MAKES DETERMINATIONS as follows:

- 15 1. The Settlement Agreement is hereby finally approved.
- 16 2. The Court finds that the proposed Settlement is "fair, reasonable, and adequate" based
17 on the value of the claims in this case, the fact that Defendant ITT is no longer an operating entity and
18 filed for chapter 7 bankruptcy on September 16, 2016, the fact that only claims for unpaid wages
19 incurred during the six-months period preceding the filing of the bankruptcy petition have priority
20 under section 507(a)(4) of the Bankruptcy Code, the monetary value of the proposed settlement and the
21 risks that the Plaintiffs would face in proceeding with litigation. The Settlement was arrived at after
22 sufficient investigation and discovery, assisted by an experienced mediator. It appears that the
23 settlement negotiations were at arm's length.
- 24 3. The Court finds that the approved notice plan has been fully implemented. Pursuant to
25 the Court's Order Granting Plaintiffs' Motion for Preliminary Approval of Class Action Settlement
26 (Dkt. ____) (hereinafter referred to as the "Order Granting Preliminary Approval"), Notices of Class
27 Action Settlement (hereinafter referred to the "Notice") were disseminated in accordance with the
28 procedure described in the Settlement Agreement, and were published on the Settlement

1 Administrator's websites.

2 4. The Court finds that ____ Settlement Class members have objected to the Settlement
3 and ____ Settlement Class Members have requested exclusion from the Settlement.

4 5. The Court hereby GRANTS FINAL APPROVAL of the terms and conditions contained
5 in the Settlement as to the Settlement Class. The Court finds that the terms of the Settlement are
6 within the range of approval, pursuant to Federal Rule of Civil Procedure 23 and applicable law.

7 6. The Court finds that: (1) the Allowed Priority Claim settlement amount is fair and
8 reasonable to the Priority Subclass when balanced against the probable outcome of further litigation
9 relating to class certification, liability and damages issues, and potential appeals; (2) the Unsecured
10 Priority Claim settlement amount is fair and reasonable to the Unsecured Subclass when balanced
11 against the probable outcome of further litigation relating to class certification, liability and damages
12 issues, and potential appeals; (3) significant informal discovery, investigation, research, and litigation
13 have been conducted such that counsel for the Plaintiffs and counsel for the Trustee at this time are
14 able to reasonably evaluate their respective positions; (4) settlement at this time will avoid substantial
15 costs, delay, and risks that would be presented by the further prosecution of the litigation; and (5) the
16 proposed Settlement has been reached as the result of intensive, serious, and non-collusive negotiations
17 between the Parties. Accordingly, the Court finds that the Settlement Agreement was entered into in
18 good faith.

19 7. The Court hereby makes final its earlier conditional certification of the Settlement
20 Class in accordance with the Settlement, for the purposes of this Settlement only. The California Class
21 is defined as "All individuals who were at any time employed by ITT as adjunct instructors in
22 California from January 12, 2012 through September 16, 2016." The Settlement Class consists of two
23 Subclasses: (a) Priority Subclass consists of "each member of the Settlement Class employed by ITT
24 as an adjunct instructor in California at any time from March 20, 2016 through September 16, 2016";
25 (b) Unsecured Subclass consists of "each member of the Settlement Class employed by ITT as an
26 adjunct instructor in California at any time from January 12, 2012 through March 19, 2016."

27 8. The Court hereby confirms its final approval of the terms and conditions contained in
28 the Settlement as to the Settlement Class as set forth in its _____, 2020 Preliminary Approval

1 Order. (Dkt. No. __.) The Court has already found that the terms of the Settlement are within the range
2 of possible approval.

3 9. The Court has also already found that: (1) the Allowed Priority Claim settlement
4 amount is fair and reasonable to the Priority Subclass and the Allowed Unsecured Claim is fair and
5 reasonable to the Unsecured Subclass when each settlement amount is balanced against the probable
6 outcome of further litigation relating to class certification, liability and damages issues, and potential
7 appeals; (2) significant informal discovery, investigation, research, and litigation have been conducted
8 such that counsel for the Parties at this time are able to reasonably evaluate their respective positions;
9 (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented by the
10 further prosecution of the litigation; and (4) the proposed Settlement has been reached as the result of
11 intensive, serious, and non-collusive negotiations between the Parties. Accordingly, the Court finds
12 that the Settlement was entered into in good faith.

13 10. The Court hereby confirms the appointment of Simpluris, Inc. as Settlement
14 Administrator for the purpose of the Settlement, and approves its reasonable administration costs of
15 \$_____ with respect to the Allowed Priority Class, which is to be paid out of the Allowed Priority
16 Claim settlement amount, and of \$_____ with respect to the Allowed Unsecured Claim, which is to be
17 paid out of the Allowed Unsecured settlement amount.

18 11. The court finally appoints HammondLaw, P.C. as Counsel for the Settlement Class, and
19 Plaintiffs as Class Representatives for the Settlement Class.

20 12. The Court finds that the approved Class Notices (originally submitted to the Court at
21 Dkt. No. __) constituted the best notice practicable under the circumstances and is in full compliance
22 with the applicable laws and the requirements of due process. The Court further finds that the Class
23 Notices fully and accurately informed the members of the Priority Subclass and the members of the
24 Unsecured Subclass of all material elements of the proposed Settlement, of their right to be excluded
25 from the Settlement, and an opportunity to object to the Settlement. The Court also finds that the
26 Trustee has given all of the notices required by the Class Action Fairness Act, 28 U.S.C. § 1715. (Dkt.
27 No. __.) A full opportunity has been afforded to the Settlement Class members to participate in this
28 hearing and all Class Members and other persons wishing to be heard have been heard. Accordingly,

1 the Court determines that __ Settlement Class members, since ____ timely and properly executed a
2 request for exclusion, are bound by this Order and the Judgment.

3 13. No later than 21 days after the distribution of checks to the Allowed Priority Claim
4 Class, Counsel shall file Post-Distribution Accounting consisting of the following: the total settlement
5 fund of the Allowed Priority Claim, the total number of settlement Priority Subclass members, the total
6 number of settlement Priority Subclass members sent notices not returned as undeliverable, the number
7 and percentage of opt-outs, the number and percentage of objections, the date on which distribution
8 was made, the number of settlement Priority Subclass members who were sent payments, the total
9 amount paid to Priority Subclass members, the average and median recovery per Priority Subclass
10 member, the largest and smallest amounts paid to the Priority Subclass member, the method of notice
11 and of payment, the number and value of checks cashed, the number and value of checks not cashed,
12 the amounts distributed to the cy pres recipient, total administrative costs, total amount of attorneys'
13 fees and costs, attorneys' fees as a percentage of the settlement fund on the Allowed Priority Claim,
14 and the lodestar multiplier.

15 14. No later than 21 days after the distribution of checks to the Allowed Unsecured Claim
16 Subclass, Counsel shall file Post-Distribution Accounting consisting of the same information with
17 respect to the Allowed Unsecured Subclass as will be provided for the Allowed Priority Claim
18 described in the previous paragraph.

19 15. The Court finally approves Class Counsel's request for attorneys' fees of one-third of
20 the Allowed Priority Claim, for a total of \$173,333.33 in fees, to be paid out of the Allowed Priority
21 Claim. The Court also finally approves Class Counsel's request for attorneys' fees of one-third of the
22 distributions made on account of the Unsecured Priority Claim, to be paid out of the Allowed
23 Unsecured Claim. These amounts are justified under the common fund doctrine, the range of awards
24 ordered in this District and Circuit, the excellent results obtained, substantial risk borne by Class
25 Counsel in litigating this matter, particular in light of the bankruptcy proceedings, the high degree of
26 skill and quality of work performed, financial burden imposed by the contingency basis of Class
27 Counsel' representation of Plaintiffs and the Class, and additional work required of them to bring this
28 Settlement to conclusion. The Court finds the fees award further supported by the lodestar crosscheck,

whereby it finds that HammondLaw, P.C.'s hourly rates and the hourly rates of bankruptcy co-counsel Cole Schotz, P.C. are reasonable, the estimated hours expended are reasonable. In fact, Class Counsel's total fees are \$_____. Thus, the Court applies a negative multiplier to Class Counsel's lodestar in issuing this fee award.

16. The Court finally approves Class Counsel's request for costs in the amount of \$_____.

17. The Court finally approves service awards of \$5,000.00 for each of the three named Plaintiffs and Class Representatives Sean Miner, David Heumann, and Shawna Admire from the Allowed Priority Claim. The Court also finally approves service awards of up to \$5,000 for each of three named Plaintiffs and Class Representatives Sean Miner, David Heumann, and Shawna Admire from the Allowed Unsecured Claim, which service awards shall be proportionate to the distributions, if any, made on the account of the Allowed Unsecured Claim. The Court finds that these awards are fair and reasonable for the work these individuals provided to the Class.

18. The Court finally approves and authorizes payment pursuant to California Private Attorneys General Act ("PAGA") of \$20,000, out of the distribution made on the account of the Allowed Priority Claim, representing payment of the PAGA penalties, with \$15,000 to be paid to the California Labor and Workforce Development Agency as its 75% share of the PAGA penalties, and the remaining 25% (\$5,000) to be paid to the Priority Subclass as part of the Allowed Priority Claim distribution.

19. Accordingly, GOOD CAUSE APPEARING, the Court hereby APPROVES following implementation schedule:

Settlement Effective Date	_____
Trustee shall deposit into the Qualified Settlement Fund \$520,000 for the Allowed Priority Claim (10 days after the Settlement Effective Date)	_____
Trustee shall provide Settlement Administrator with access to the ITT data needed to perform the calculations of the number of workweeks	_____
Settlement Administrator shall distribute the Allowed Priority Claim amount in accordance	_____

1	with the Settlement Agreement as soon as reasonably practicable	
2		
3	Uncashed checks from the Allowed Priority Claim sent to <i>cy pres</i> (6 months after mailing)	_____
4		
5	Trustee shall deposit, in the normal course of the Trustee's administration of the Estate of ITT, into the Qualified Settlement Fund amount, if any, available for distribution on the account of the Unsecured Claim amount	N/A
6		
7		
8	Settlement Administrator shall distribute the Allowed Unsecured Claim amount in accordance with the Settlement Agreement as soon as reasonably practicable	N/A
9		
10	Uncashed checks from the Allowed Unsecured Claim sent to <i>cy pres</i> (6 months after mailing)	6 months after mailing
11		

12 20. The Court hereby enters final judgment in this case in accordance with the terms of the
13 Settlement Agreement, Order Granting Preliminary Approval, and this Order.

14 21. This Order shall constitute final judgment.

15 ///

16 ///

17 22. The Parties shall bear their own costs and attorneys' fees except as otherwise provided
18 by the Settlement Agreement and this Court.

19 **IT IS SO ORDERED.**

20
21 Dated: _____

HON. VINCE CHHABRIA
UNITED STATES DISTRICT COURT

EXHIBIT 3 – Identification of Adjunct Instructors’ Proofs of Claim

Name	Claim No.	Case No.
Douglas J. Praska	1251	16-07207
Douglas J. Praska	339	16-07208
Howard G. Smith	657	16-07207
Kevin Matthew Keane	2077	16-07207
Mariah Spriggsbruce	2958	16-07207
Mariah Spriggsbruce	593	16-07208
Mariah Spriggsbruce	487	16-07209
Martin Andaya	1023	16-07207
Mary Dietz	1797	16-07207
Mary Dietz	443	16-07208
Mary Dietz	363	16-07209
Samuel Morris	2478	16-07207
Samuel Morris	528	16-07208
Samuel Morris	434	16-07209
Sharjeel Ahmad	1509	16-07207
Sharjeel Ahmad	392	16-07208
William M. Collins	2103	16-07207

EXHIBIT 4 – Notice to Settlement Class

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**SEAN MINER, DAVID HEUMANN, and
SHAWNA ADMIRE**, individually and on behalf
of all others similarly situated.

Plaintiff,

vs.

ITT EDUCATIONAL SERVICES, INC., a
Delaware corporation.

Defendant.

Case No. 3:16-cv-04827-VC

**NOTICE OF PROPOSED CLASS
ACTION SETTLEMENT**

Judge: Hon. Vince Chhabria

DATE: _____, 20____

TO: All individuals who were at any time employed by ITT Educational Services, Inc. (“**ITT**”) as adjunct instructors in California from January 12, 2012 through September 16, 2016 (“**Settlement Class**”) with the following subclasses:

- o Each member of the Settlement Class employed by ITT as an adjunct instructor at any time from March 20, 2016 through September 16, 2016 (“**Priority Subclass**”); and
- o Each member of the Settlement Class employed by ITT as an adjunct instructor in California at any time from January 12, 2012 through March 19, 2016 (“**Unsecured Subclass**”).

**YOU ARE ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT.
PLEASE READ THIS NOTICE CAREFULLY.**

NO ACTION NEEDS TO BE TAKEN TO BE ELIGIBLE TO RECEIVE MONEY UNDER THE SETTLEMENT: If you are a member of the Settlement Class (as defined above) and received this Notice, you are automatically included in the Settlement and do not need to take any further action to receive a payment. If you do nothing, you will be eligible to receive a settlement award and you will release the claims described in Section V, below.

I. INTRODUCTION

This “NOTICE OF PROPOSED CLASS ACTION SETTLEMENT” (“**Notice**”) is to inform you that a settlement has been reached regarding claims asserted against ITT on behalf of the Settlement Class that argued ITT violated various California wage and hour laws, by, among other things described below, not paying adjunct instructors separately from the per course compensation for non-class preparation time, failing to compensate instructors for rest periods, and failing to reimburse instructors for work-related cell phone expenses during the period from January 12, 2012 through September 16, 2016.

As explained in further detail below, Sean Miner, David Heumann, and Shawna Admire (“**Plaintiffs**”) initiated a lawsuit against ITT on July 20, 2016 by filing a Class Action Complaint in the Superior Court for the State of California, County of Alameda, Case No. RG16824000 (“**Class Action**”). The case was transferred, or “removed,” to the United States District Court for Northern District of California on August 22, 2016, which is the Court that approved this Notice (“**District Court**”).

On September 16, 2016, ITT, together with its affiliates ESI Service Corp. and Daniel Webster College, Inc. (“**Affiliated Debtors**”), each filed voluntary petitions for relief under chapter 7 of title 11 of the United States Code (“**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of Indiana (“**Bankruptcy Court**”), which cases were ordered jointly administered under Case No. 16-07207 (“**Bankruptcy Case**”).

The District Court has granted preliminary approval of the Settlement and ordered this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

II. DESCRIPTION OF THE LAWSUIT

The Class Action Complaint alleges claims against ITT for violating various provisions of the California Labor Code, California Industrial Welfare Commission (“IWC”) Wage Order No. 4-2011, and Private Attorneys General Act, including failure to pay wages for all hours worked, including hours worked outside the classroom teaching time (Cal. Labor Code §§ 1194, 1194.2; IWC Wage Order No. 4-2001, § 4); failure to provide paid rest periods and pay missed rest break premiums (Cal. Labor Code §§ 226.7; IWC Wage Order No. 4-2001, § 12); failure to pay compensation due upon discharge from employment (Cal. Labor Code §§ 201-203); failure to issue accurate wage statements (Cal. Labor Code § 226); failure to reimburse for business-related cell phone expenses, including cellphone usage (Cal. Labor Code § 2802); unfair, unlawful, or fraudulent business practices (Cal. Bus. & Prof. Code §§ 17200 *et seq.*); and Private Attorneys General Act claim for civil penalties (Cal. Labor Code §§ 2698 *et seq.*). Plaintiffs sought, among other relief, unpaid wages, actual and compensatory damages, restitution, interest, statutory and civil penalties, attorney’s fees, expenses and costs.

ITT strongly denied liability for all of Plaintiffs’ claims and contended that it fully complied with California law. Specifically, ITT contended that its rest break policies and expense reimbursement policies complied with California law and ITT properly compensated the Settlement Class for all hours worked.

As noted in the introduction, ITT filed a chapter 7 bankruptcy, which means ITT ceased operations, and a trustee was appointed to manage the liquidation of ITT’s property and resolution of claims so that any remaining funds could pay for the expense of administering the bankruptcy case and provide a distribution to claimants and creditors pursuant to priorities established by the Bankruptcy Code. Deborah J. Caruso is the trustee (“**Trustee**”) for ITT’s property available to pay the expenses of administration and creditor claims, otherwise known as ITT’s “bankruptcy estate.”

Due to the Bankruptcy Case, the Class Action was stayed in the District Court, and the Bankruptcy Court assumed jurisdiction over the Class Action Complaint as part of its role in resolving disputes regarding claims against ITT’s bankruptcy estate. On September 11, 2019, the Plaintiffs and the Trustee participated in a mediation, resulting in a settlement to resolve all of the claims in the Class Action, subject to approval of the Bankruptcy Court and the District Court (“**Settlement**”). For settlement purposes, Plaintiffs and the Trustee (the “**Parties**”) have agreed to the establishment of the Settlement Class, the Priority Subclass, and the Unsecured Subclass.

The reason for having two subclasses is that the Bankruptcy Code affords a higher priority claim status for wages and certain related compensation incurred by an individual within 180 days before the filing of the petition in bankruptcy up to a maximum of \$12,850. Therefore, members of the Settlement Class who were employed by ITT as adjunct instructors from March 20, 2016 to September 16, 2016 are included in the Priority Subclass. Members of the Settlement Class who were employed by ITT as adjunct instructors from January 12, 2012 through March 19, 2016 are included in the Unsecured Subclass. Furthermore, members of

the Settlement Class who were employed by ITT as adjunct instructors for both periods are members of both the Priority Subclass and the Unsecured Subclass.

Neither the District Court, nor the Bankruptcy Court has determined whether Plaintiffs' claims have merit. Plaintiffs would still have to successfully certify the class and prove their claims at a trial on a class-wide basis. However, to avoid additional expense, inconvenience, and risks of continued litigation, and in light of ITT's chapter 7 bankruptcy filing, the Parties have concluded that it is in their respective best interests and the interests of the Settlement Class to settle the Class Action and the claims in the Bankruptcy Case on the terms summarized in this Notice. After litigating the matter for several years and making significant exchanges of information, the Settlement was reached after arms-length non-collusive negotiations between the Parties. In these negotiations, both sides recognized the substantial risk of the Bankruptcy Court deciding against them at trial, and the parties determined the Settlement is a fair, reasonable and adequate way to resolve the disputed claims.

Plaintiffs and Class Counsel support this Settlement, finding it fair, adequate, reasonable, and in the best interest of the Settlement Class. Among the reasons for support are the defenses to liability potentially available to ITT (and the Trustee), the inherent risk of trial on the merits, the potential for the Bankruptcy Court to deny certification of the class, and the delays and uncertainties associated with litigation.

On [REDACTED], 2020, following approval of the Settlement by the Bankruptcy Court, the District Court preliminarily approved the Settlement. This Notice is being sent to you because ITT's records indicate that you were employed by ITT as a California adjunct instructor between January 12, 2012 and September 16, 2016. Plaintiffs are represented by Julian Ari Hammond, Polina (*formerly* Pecherskaya) Brandler, and Ari Cherniak, Hammondlaw, P.C. ("**Class Counsel**").

III. TERMS OF THE SETTLEMENT

There are two monetary components of the Settlement.

The Trustee has agreed to the allowance of the following claims in ITT's Bankruptcy Case:

- o A claim in the amount of \$520,000.00 ("**Allowed Priority Claim**") on behalf of the Priority Subclass as a priority claim pursuant to section 507(a)(4) of the Bankruptcy Code; and
- o A claim in the amount of \$4,500,000.00 ("**Allowed Unsecured Claim**") on behalf of the Unsecured Subclass as a pre-petition general unsecured claim;

A. Allowed Priority Claim (Priority Subclass)

The Trustee shall disburse the Allowed Priority Claim to the Settlement Administrator within 10 days following the Settlement Effective Date, the date when the District Court finally approves the Settlement, and 15% or more members of the Settlement Class do not opt out of the Settlement. The following allocations shall be paid from the Allowed Priority Claim:

1. Settlement Administration Costs. The District Court has approved Simpluris, Inc. to act as the "Settlement Administrator," who is sending this Notice to you and will perform many other duties relating to the Settlement, including, but not limited to, locating Priority Subclass members, processing opt out requests and objections, and calculating, administering, and distributing amounts on account of the Allowed Priority Claim. Under the Settlement, a maximum of \$13,000 can be paid from the Allowed Priority Claim to pay costs of administration.

2. Attorneys' Fees and Expenses. Class Counsel has been prosecuting the lawsuit on behalf of the Settlement Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses. To date, the Parties have aggressively litigated many aspects of the case and spent hundreds of hours in the process. The District Court will determine the actual amount awarded to Class Counsel as attorneys' fees and expenses, which will be paid from the Allowed Priority Claim. Priority Subclass members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for fees and costs of 33.33% of the Allowed Priority Claim, or \$173,333.33, as reasonable compensation for the work Class Counsel performed, and will continue to perform, in this lawsuit. Class Counsel will also ask the District Court for reimbursement of up to \$25,000 of their actual out-of-pocket expenses.
3. Service Award Payments to the Class Representatives. The District Court has preliminarily approved service awards to Plaintiffs as representatives of the Priority Subclass, in the amount of \$5,000 each to compensate them for their service and extra work provided on behalf of the Priority Subclass. Plaintiffs may also be entitled to payment of a share of the Allowed Priority Claim to the extent they are a member of the Priority Subclass.
4. Penalties to the California Labor Workforce and Development Agency. The District Court has preliminarily allocated \$20,000 of the Allowed Priority Claim to Plaintiffs' civil penalty claim under the Private Attorneys General Act of 2004. Of this amount, 75% (i.e. \$15,000) will be paid to the State of California, California Labor and Workforce Development Agency in accordance with California law, and the rest will remain for distribution in the Net Settlement Amount.
5. Net Settlement Amount. After deducting the amounts in paragraphs A.1 through A.4 above, the balance of the Allowed Priority Claim will form the Net Settlement Amount for distribution to members of the Priority Subclass.

B. Allowed Unsecured Claim (Unsecured Subclass)

The Trustee's administration of ITT's bankruptcy estate is ongoing. The Trustee continues to pursue lawsuits to recover money or property, and is in the process of working to resolve claims against ITT's bankruptcy estate. Creditors with allowed general unsecured claims are entitled to receive a pro rata share of funds available in ITT's bankruptcy estate after Bankruptcy Court-approved professional fees and expenses have been paid and all allowed priority claims are paid. Therefore, it is not possible to state with precision what amounts, if any, will be distributed to the Allowed Unsecured Claim. If there are funds available to distribute to the Allowed Unsecured Claim, the following allocations will be made from the amount distributed:

1. Non-Income Taxes. All distributions constituting Unemployment Insurance, Employment Training Tax, and State Disability Insurance that is required to be paid as a result of the Settlement shall be deducted from any distribution on account of the Allowed Unsecured Claim.
2. Settlement Administration Costs. Costs incurred and fees earned by the Settlement Administrator in connection with its administration of distributions, if any, made on account of the Allowed Unsecured Claims, including, but not limited to, providing the Unsecured Subclass members with required notices, locating Unsecured Subclass members, processing opt out requests and objections, and calculating, administering and distributing amounts on account of the Allowed Unsecured Claim and related tax forms in an amount not to exceed \$13,000.
3. Service Award Payments to the Class Representatives. The District Court has preliminarily approved service awards to Plaintiffs as representatives of the Unsecured Subclass, in the amount of \$5,000

each to compensate them for their service and extra work provided on behalf of the Unsecured Subclass. Plaintiffs may also be entitled to payment of a share of the General Unsecured Claim to the extent they are a member of the Unsecured Subclass.

4. Attorneys' Fees and Expenses. Class counsel has been prosecuting this lawsuit on behalf of the Settlement Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses. To date, the Parties have aggressively litigated many aspects of the case and spent hundreds of hours in the process. The District Court will determine the actual amount awarded to Class Counsel as attorneys' fees and expenses. Unsecured Subclass members are not personally responsible for any of Class counsel's attorneys' fees or expenses. Class counsel will ask for fees and costs of up to 33.33% of the distribution made on account of the Unsecured Claim, the dollar amount of which will depend on the amount available for distribution to the Unsecured Subclass members, as reasonable compensation for the work Class Counsel performed, and will continue to perform, in this lawsuit. Class Counsel will also ask the District Court for reimbursement of up to \$1,500 of their actual out-of-pocket expenses.
5. Net Settlement Amount. After deducting the amounts in paragraphs B.1 through B.4 above, the balance of the General Unsecured Claim will form the Net Settlement Amount for distribution to members of the Unsecured Subclass.

IV. YOUR INDIVIDUAL SHARE OF THE SETTLEMENT AMOUNT

Allowed Priority Claim (Priority Subclass)

After payment of the amounts set forth in paragraphs A.1 through A.4 in Part III above under "Allowed Priority Claim," the Settlement Administrator will divide the Net Settlement Amount by the combined number of workweeks that all of the Priority Subclass members worked between March 20, 2016 and September 16, 2016 (the "**Weekly Priority Amount**"). The Settlement Administrator will then multiply the Weekly Priority Amount by the total number of workweeks each Priority Subclass member was employed by ITT between March 20, 2016 and September 16, 2016 to arrive at the portion of the Allowed Priority Claim distributable to each Priority Subclass member. If any Priority Subclass member opts out of the settlement, that person's share will be added to the amount available for distribution to the other Priority Subclass members who did not opt out.

Allowed Unsecured Claim (Unsecured Subclass)

Once the administration of ITT's bankruptcy estate is concluded, the Trustee will provide Class Counsel with the total amount of the distribution on the Allowed Unsecured Claim ("**Distributable Unsecured Amount**"). Thereafter, the Distributable Unsecured Amount paid to each Unsecured Subclass member, if any, will be calculated as follows: After payment of the amounts set forth in paragraphs B.1 through B.4 in Part III above under "Allowed Unsecured Claim," the Settlement Administrator will divide the remaining amount by the combined number of workweeks that all of the Unsecured Subclass members worked between January 12, 2012 and March 19, 2016 (the "**Weekly Unsecured Amount**"). The Settlement Administrator will then multiply the Weekly Unsecured Amount by the total number of workweeks each Unsecured Subclass member was employed by ITT between January 12, 2012 and March 19, 2016 to arrive at the portion of the Distributable Unsecured Amount distributable to each Unsecured Subclass member. If any Unsecured Subclass member opts out of the Settlement, that person's share will be added to the amount available for distribution, if any, to the other Unsecured Subclass members who did not opt out.

Treatment of Distributions

One-third (1/3) of each distribution each member of the Settlement Class receives shall constitute wages in the form of wages / back pay (and each member of the Settlement Class will be issued an IRS Form W-2 from the Settlement Administrator for such payment), one-third (1/3) shall constitute interest, and one-third (1/3) shall constitute penalties (and each member of the Settlement Class will be issued an IRS Form 1099 from the Settlement Administrator for such payment). The members of the Settlement Class who receive payments from the Settlement Administrator shall be solely responsible for the payment of any and all individual tax obligations associated with the amounts received other than Non-Income Taxes.

Share Form

Attached herewith is a Share Form which includes an estimate of your Individual Settlement Amount for the Priority Subclass if applicable. Because the actual amount of a distribution toward the Allowed Unsecured Claim, if any, is not known, the Share Form includes an estimate of your pro rata share of the Net Settlement Amount expressed in percentage terms.

In addition to the uncertainty regarding any distribution to the Allowed Unsecured Claim, the amount you are eligible to receive may change depending on the participation of other members of the Settlement Class and the District Court's approval of the Settlement.

V. THE RELEASE OF CLAIMS

If the District Court approves the Settlement, all members of the Settlement Class who do not opt out before the deadline will release and discharge the Trustee, as Trustee and in her individual capacity, all professionals engaged by the Trustee on her behalf and on behalf of the ITT, the Affiliated Debtors, the bankruptcy estates of each, and all successors and assigns thereof, from any and all claims, demands, obligations, damages, action, or causes of action, in law or in equity, whether sounding in tort or contract, or based on federal or state law, and whether known or unknown, which Plaintiffs, and the Settlement Class (including the Priority Subclass and Unsecured Subclass), or any one or more of them, have or may have against the Trustee, the Debtors and the Estate of each and all of the Debtors, for any reason whatsoever existing prior to or as of the based on the facts alleged in the Class Action and related filings by Plaintiffs in the Bankruptcy Case. Members of the Settlement Class who do not opt out will be deemed to have acknowledged and agreed that the payments received under the Settlement constitute payment of all sums allegedly due to them. Members of the Settlement Class will be deemed to have acknowledged and agreed that California Labor Code Section 206.5 is not applicable to the payments received under the Settlement.

That section provides in pertinent part as follows:

“An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made.”

The releases provided for in the Settlement extend to claims based on the facts alleged in the Class Action and related filings by Plaintiffs in the Bankruptcy Case that members of the Settlement Class do not know or suspect to exist at the time of the release, which if known, might have affected the decision to enter into the release (“**Unknown Claims**”). In releasing the Unknown Claims, members of the Settlement Class expressly waive any and all protections, provisions, rights and benefits conferred by any law of the United States or any state or territory of the United States, or principle of common law, which governs or limits a

person's release of Unknown Claims, including Section 1542 of the California Civil Code. Section 1542 of the California Civil Code provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Each members of the Settlement Class by operation of law shall be deemed to acknowledge the significance of these waivers of California Civil Code Section 1542 and/or any other applicable law relating to limitations on releases of Unknown Claims.

The "**Settlement Effective Date**," or the date the Settlement shall become "final," shall mean:

The date on which all of the following conditions have been met or, if applicable, have been waived:

- o The Bankruptcy Court has approved the Settlement in a Final Order;
- o The District Court approves the Settlement in a Final Order;
- o The Trustee shall have given notice in accordance with 28 U.S.C. § 1715 (notice to certain state and federal officials);
- o Plaintiffs have voluntarily dismissed with prejudice the adversary proceeding they filed in connection with the Bankruptcy Case; and
- o Fifteen percent (15%) or more members of the Settlement Class do not opt out of the Settlement.

"**Final Order**" means an order that is no longer subject to appeal.

In the event the District Court does not enter a Final Order approving the Settlement or if the Settlement Effective Date does not occur within 270 days after the Bankruptcy Court enters a Final Order approving the Settlement (absent exceptions for court closures), the Trustee may, in the Trustee's sole discretion, declare the Settlement null and void, and the Parties will resume litigation regarding the Class Action.

VI. WHAT ARE YOUR OPTIONS?

A. Do Nothing and Be Eligible to Receive Your Portion of the Settlement

You are automatically included as a Class Participant and will be eligible to receive a settlement payment and do not have to take any further action to be eligible to receive your settlement payment. By participating in the Settlement, you will be bound by the Release. It is your responsibility to ensure that the Settlement Administrator has your current address on file, or you may not receive important information or a settlement payment. The estimated amount of your settlement payment if you do nothing is included on the attached Share Form.

B. Opt-Out and Be Excluded from the Class and the Settlement

If you **do not** wish to take part in the Settlement, you may exclude yourself (i.e., opt-out) by sending to the Settlement Administrator at the address on the last page of this Notice an "Opt-Out Request from the Class Action Settlement" letter/card **postmarked no later than** [REDACTED], **20** [REDACTED], with your name, address, telephone number, and signature. Alternatively, you may submit an Opt-Out Request from the Class Action Settlement to the Settlement Administrator via email to the following address: [INSERT EMAIL ADDRESS] **no later than** [REDACTED], **20** [REDACTED]. The Opt-Out form should state:

“I WISH TO BE EXCLUDED FROM THE CLASS IN THE ITT LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS SETTLEMENT OF THIS LAWSUIT AND WILL NOT BE RELEASING ANY CLAIMS I MIGHT HAVE.”

By filing a timely Opt-Out Request, you will no longer be a member of the Settlement Class, and will receive no benefits from the Settlement.

C. Object to the Settlement

You also have the right to object to the terms of the Settlement. However, if the District Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the proposed Settlement, or any portion of it, you must file with the Settlement Administrator a written objection stating your name, address, telephone number, dates of employment with ITT, the case name and number, each specific reason in support of your objection, and any legal support for each objection. Objections must be in writing and must be mailed to the Settlement Administrator **by no later than [REDACTED], 20[REDACTED]** for your objection to be considered. **OBJECTIONS THAT DO NOT INCLUDE ALL REQUIRED INFORMATION, OR THAT ARE NOT SUBMITTED TIMELY, MAY NOT BE CONSIDERED BY THE DISTRICT COURT.**

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for [REDACTED], 20[REDACTED], at [REDACTED] .m. at the United States District Court, Phillip Burton Federal Building & United States Courthouse, 450 Golden Gate Avenue, Courtroom 4 – 17th Floor, San Francisco, CA 94102. Due to the COVID-19 pandemic, hearings before the judge overseeing this case are currently being conducted remotely via Zoom Webinar. If that remains the case at the time of the Final Approval Hearing, members of the Settlement Class who wish to appear at the Final Approval Hearing should visit the Court’s website at the following link: <https://www.cand.uscourts.gov/judges/chhabria-vince-vc/> to access the Zoom Webinar on the date and time of the Final Approval Hearing.

The date and time of the Final Approval Hearing may change without notice to the Settlement Class. Check the settlement websites at [REDACTED] or the case docket via PACER at <https://pacer.uscourts.gov/> to confirm the date has not been changed. You will need to register for a PACER account in order to access the case docket. You may then enter the case information under the “Search for a Case” link to view the District Court’s docket.

You have the right to appear either in person or through your own attorney at this hearing. Objections not previously filed in writing in a timely manner as described above may not be considered by the District Court. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the District Court and serve counsel for all parties on or before [REDACTED], 20[REDACTED]. All objections or other correspondence must state the name and number of the case.

The Court will only require substantial compliance with the requirements for submitting an objection. The requirement to submit a written objection may be excused upon a showing of good cause.

D. Participate in the Settlement but Dispute Your Workweeks

Your inclusion in the Priority Subclass and / or the Unsecured Subclass was determined following a review of ITT’s records. If you feel that you were wrongly not included in the Priority Subclass or Unsecured Subclass, you may fill out the “dispute” portion of your Share Form and submit evidence to the Settlement Administrator on or before [REDACTED], 20[REDACTED] with documentation to establish the number of pay periods or pay weeks you claim to have actually worked during the Class Period. **DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED; DO NOT SEND ORIGINALS.** The Parties and Settlement Administrator will promptly evaluate the evidence submitted and discuss in good faith how many workweeks should be credited. The Settlement

Administrator will make the final decision as to how many weeks are credited, and report the outcome to the Class Participant.

VII. UPDATE FOR YOUR CHANGE OF ADDRESS

If you move after receiving this Notice or if it was misaddressed, please complete the Change of Address portion of the Share Form and mail it to the Settlement Administrator at the address below as soon as possible. **THIS IS IMPORTANT SO THAT FUTURE NOTICES AND/OR THE SETTLEMENT PAYMENT REACH YOU.**

VIII. IF THE SETTLEMENT IS NOT APPROVED

If the Settlement is not approved by the District Court, or if any of its conditions are not satisfied, the conditional settlement will be voided, no money will be paid, and the case will return to litigation. If that happens, there is no assurance that any decision at trial or subsequent appeal would be in favor of members of the Settlement Class.

IX. QUESTIONS OR COMMENTS?

PLEASE DO NOT CALL OR CONTACT THE COURT. If you have any questions about the settlement, you may contact the Settlement Administrator at: **[INSERT TELEPHONE NO.]** or by e-mail at **[INSERT EMAIL ADDRESS]**. The pleadings and other records in this litigation, including the Settlement Agreement, may be obtained on the settlement website here: **[INSERT SETTLEMENT ADMINISTRATOR'S WEB SITE]**. The pleadings and other records in this litigation may also be examined online on the PACER website in the manner described above. You may also contact Class Counsel at the address or phone number listed below.

THE ATTORNEYS REPRESENTING THE SETTLEMENT CLASS ARE:

HAMMONDLAW, P.C.
Julian Hammond
1829 Reisterstown Rd. Suite 410
Baltimore, MD 21208
Telephone: (310) 601-6766
Facsimile: (310) 295-2385

SETTLEMENT ADMINISTRATOR ADDRESS:

All written correspondence, including requests for exclusion, objections, or disputes, must be mailed to the Settlement Administrator at the following address:

[INSERT ADDRESS]

Requests for exclusion may also be emailed to the Settlement Administrator at **[INSERT EMAIL ADDRESS]**