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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

ALONSO HERNANDEZ, individually and on
behalf of other persons similarly situated,

Plaintiff,

vs.

WILD DEVIL LLC; JOSEPH MANZELLA
and **DOES 1-50**,

Defendants.

Case No.: 30-2016-00839840-CU-OE-CJC
[Hon. Peter Wilson, Department CX102]

CLASS ACTION

**STIPULATION OF CLASS ACTION AND
PAGA SETTLEMENT**

Complaint Filed: March 9, 2016
Trial Date: None Set

STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT

STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT

IT IS HEREBY STIPULATED, by and between Plaintiff ALONSO HERNANDEZ, and Defendants WILD DEVIL LLC and JOSEPH MANZELLA on the other hand, and subject to the approval of the Court, that the Action is hereby being compromised and settled pursuant to the terms and conditions set forth in this Stipulation of Class Action and PAGA Settlement and that the Court shall make and enter judgment, subject to the continuing jurisdiction of the Court as set forth below, subject to the definitions, recitals and terms set forth herein which by this reference become an integral part of this Agreement:

DEFINITIONS

1. "Agreement" means this Stipulation of Class Action Settlement.
2. "Action" means the lawsuit known as *Hernandez v. Wild Devil LLC, et al.*, filed in Orange County Superior Court on March 9, 2016, Case No. 30-2016-00839840.
3. "Back of House Settlement Fund" means sixty-five percent (65%) of Net Settlement Amount allocated for unpaid wages (other than vacation wages), overtime, meal period premiums, and rest period premiums, as described in Paragraph 60 below.
4. "Back of House Sub Class" means any Settlement Class Member who worked as an hourly employee in a non-supervisory position of line cook, prep cook, or dishwasher for Wild Devil LLC during the Class Period.
5. "Class Counsel" means Kenneth A. Goldman of Law Office of Kenneth Goldman, PC and Sahag Majarian of the Law Offices of Sahag Majarian, II
6. "Class Counsel Award" means attorneys' fees for Class Counsel's litigation and resolution of this Action and their expenses and costs incurred in connection with the Action, paid from the Gross Settlement Fund as described in Paragraph 62 below.
7. "Class Information" means information regarding Class Members that Defendants will in good faith compile from their records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include: each Settlement Class Member's full name; last known address; last known home telephone number; Social Security number; start date of employment; end date of employment; applicable subclass; and

1 Compensable Weeks for the Settlement Class.

2 8. “Class Member” means any nonexempt, hourly paid employee of Defendant Wild
3 Devil LLC who worked a minimum of thirty-two (32) hours during any workweek during the
4 Class Period.

5 9. “Class Period” means the period from March 9, 2012 through the hearing date of
6 Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

7 10. “Class Representative Service Award” means the award provided to Plaintiff in
8 recognition of his participation in this litigation as described in Paragraph 61 below.

9 11. “Compensable Weeks” means the number of weeks during which members of the
10 Wages Settlement Class was employed directly by Defendants during the Class Period.
11 Compensable Weeks does not include workweeks during which Settlement Class Members
12 worked in a joint employer capacity between WILD DEVIL and a staffing agency or
13 professional employer organization.

14 12. “Costs” means those amounts of money reasonably expended to litigate, and
15 settle, this matter.

16 13. “Court” means the Orange County Superior Court.

17 14. “Defendants” means Wild Devil LLC and Joseph Manzella (“Wild Devil” or
18 “Defendants”).

19 15. “Defense Counsel” means Robert Lawrence of Lawrence Bartels LLP.

20 16. “Effective Date” means the date upon which the Court grants final approval of the
21 Settlement if (a) no Settlement Class Members file objections to the Settlement, or (b) any
22 Settlement Class Member files an objection but it is subsequently withdrawn. However, if an
23 appeal or other appellate proceeding is initiated, the Effective Date shall be the date the trial
24 court regains jurisdiction following the latter of termination of all appellate proceedings or the
25 expiration of the time to bring further appeal.

26 17. “Former Employee” means those Settlement Class Members who are former
27 hourly-paid, non-exempt employees of WILD DEVIL who worked directly for WILD DEVIL
28 within California (or if any such person is incompetent, deceased, or unavailable due to military

1 service, the person's legal representative or successor in interest evidenced by reasonable
2 verification) as of the date of upon which the Court grants preliminary approval of the
3 Settlement.

4 18. "Former Employee Sub Class" means any Settlement Class Member who is a
5 Former Employee.

6 19. "Gross Settlement Fund" means the maximum settlement amount of One Hundred
7 Fifty Thousand Dollars and Zero Cents (\$150,000.00) to be paid by Defendants in monthly
8 installments as described in Paragraph 57 below and full satisfaction of all claims arising from
9 the Action, which includes all Individual Settlement Payments to Settlement Class Members,
10 Class Counsel Award, the Class Representative Enhancement Payment to Plaintiff, Settlement
11 Administration Costs to the Settlement Administrator, and the Labor Code Private Attorneys
12 General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA") Payment. This Gross
13 Settlement Fund has been agreed to by Plaintiff and Defendants based on the aggregation of the
14 agreed-upon settlement value of individual claims. In no event will Defendants be liable for
15 more than the Gross Settlement Fund absent the conditions set forth in Paragraph 65 below, and
16 which could cause the Gross Settlement Fund to increase based upon a larger than anticipated
17 number of Settlement Class Members. Defendants maintain no reversionary right to any portion
18 of the Gross Settlement Fund. The entire Gross Settlement Fund will be distributed and no part
19 of the Gross Settlement Fund will revert to Defendants. The Gross Settlement Fund does not
20 include employer-side payroll taxes, and any tax obligations owed by WILD DEVIL shall be
21 paid separate and apart from the Gross Settlement Fund.

22 20. "Individual Settlement Payment" means the amount payable to each Settlement
23 Class Member as described in Paragraph 60 below.

24 21. "LWDA Payment Amount" means 75% of the PAGA Settlement Fund.

25 22. "Net Settlement Amount" or "NSA" means the Gross Settlement Fund, less Class
26 Counsel Award, Costs, Class Representative Service Award, the PAGA Settlement Fund, and
27 Settlement Administrator Costs.

28 23. "Notice Packet" means the Notice of Proposed Class Action Settlement

(substantially in the form attached as **Exhibit A**).

24. “PAGA Employee Share” means 25% of the PAGA Settlement Fund.

25. “PAGA Settlement Fund” means the portion of the Gross Settlement Fund that the Parties have agreed will be allocated and paid to settle all claims and remedies under the PAGA. The amount of the PAGA Payment is subject to court approval pursuant to California Labor Code section 2699(I). The Parties have agreed that Three Thousand Dollars and Zero Cents (\$3,000.00) of the Gross Settlement Fund shall be allocated to the resolution of any PAGA Settlement Class Members’ claims arising under PAGA. Pursuant to the PAGA, 75%, or Two Thousand Two Hundred Fifty Dollars and Zero Cents (\$2,250.00), of the PAGA Settlement Fund shall be paid to the California Labor and Workforce Development Agency (“LWDA”), and 25%, or Seven Hundred Fifty Dollars and Zero Cents (\$750.00), of the PAGA Settlement Amount shall be part of the Net Settlement Amount to be distributed to the Wages Settlement Class and considered penalties for tax liability purposes.

26. “Parties” means Plaintiff and Defendants, collectively, and “Party” shall mean either Plaintiff individually or Defendants as defined above.

27. “Plaintiff” means Alonzo Hernandez.

28. “Released Claims” shall collectively mean all claims against the Released Parties (as defined below), or any of them, for relief and penalties, that accrued March 9, 2012 through the Preliminary Approval Date, and as a result of Class Members’ employment at Defendants as follows: The Back of House Sub Class Released Claims shall include all claims which relate to or arise under any state or local law or state administrative order that was or could have been pled based on the facts alleged in the operative complaint relating to claims of failure to pay all wages due each pay period, failure to pay minimum wages, failure to pay overtime wages, failure to furnish accurate wage statements, violations of California’s meal and rest period laws, failure to pay accrued vacation wages upon termination, wage theft/time shaving, attorneys’ fees or litigation costs, violations of California *Labor Code* sections 201, 202, 203, 204, 226, 226.7, 227.3, including without limitation all related claims for restitution and other equitable relief arising under the Private Attorney General Act, *Business and Professions Code* §§ 17200 *et seq.*,

and interest on unpaid wages. The Front of House Sub Class Released Claims shall be limited to all claims which relate to unpaid accrued vacation wages and waiting time penalties pursuant to California *Labor Code* sections 203 and 227.3. The Released Claims specifically exclude claims for workers' compensation, personal injuries, unemployment insurance, state disability compensation, claims under the Employment Retirement Income Security Act of 1974, previously vested benefits under any Employer-sponsored benefits plan, wrongful termination, discrimination, retaliation, and harassment including but not limited to those arising under the Age Discrimination In Employment Act, the California Fair Employment and Housing Act, Title VII of the Federal Civil Rights Act of 1964, and/or Federal Civil Rights Act of 1991, or any similar state or federal laws, the California Family Rights Act, the Federal Family Medical Leave Act, the California Pregnancy Leave Law, or similar state or federal laws, the Federal Equal Pay Act of 1963, violations of the Americans with Disabilities Act of 1990 or violations of any other state or federal law, rule or regulation concerning discrimination, retaliation and/or harassment. In consideration for the service award and as an inducement for Defendants to enter into this Stipulation, Class Representative's Released Claims (and only the Class Representative) additionally include any and all claims including Unknown Claims against Defendants that accrued during the Class Period, but does not include claims for: age discrimination under the Age Discrimination In Employment Act, unemployment insurance, workers' compensation benefits, state disability compensation, previously vested benefits under any Employer-sponsored benefits plan or claims under the Employment Retirement Income Security Act of 1974.

29. "Released Parties" means Defendants, each of their respective parent companies, subsidiaries, current and former management companies, shareholders, members, owners, agents (including without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns. The Released Claims shall not extend to any staffing agencies or professional employer organizations that provided labor and or personnel to Defendants during the time period covered by the release.

30. "Response Deadline" means the date forty-five (45) days after the Settlement Administrator mails Notice Packets to Settlement Class Members and the last date on which Settlement Class Members may request for exclusion and/or objection to the Settlement.

31. "Settlement" means the disposition of the Action pursuant to this Agreement.

32. "Settlement Administration Costs" means the amount to be paid to the Settlement Administrator from the Gross Settlement Fund for administration of this Settlement.

33. "Settlement Administrator" means Simpluris, Inc.

34. "Settlement Class Members" means all Class Members who do not submit a timely and valid request for exclusion as provided in this Agreement.

35. "Vacation Pay Settlement Fund" means thirty-five percent (35%) of the portion of the Net Settlement Amount as described in Paragraph 60 below.

RECITALS

36. Class Certification. The Parties stipulate and agree to the certification of this Action for purposes of this Settlement only. Should the Settlement not become final and effective as herein provided, class certification shall immediately be set aside and the Settlement Class immediately decertified (subject to further proceedings on motion of any party to certify or deny certification thereafter). The Parties' willingness to stipulate to class certification as part of the Settlement shall have no bearing on, and shall not be admissible in or considered in connection with, the issue of whether a class should be certified in a non-settlement context in this Action and shall have no bearing on, and shall not be admissible or considered in connection with, the issue of whether a class should be certified in any other lawsuit or arbitration.

37. Procedural History. On March 9, 2016, Plaintiff filed a Class Action lawsuit in Orange County Superior Court. On March 8, 2016, Plaintiff submitted his letter to the Labor & Workforce Development Agency ("LWDA") as a prerequisite to pursue penalties under the Labor Code Private Attorneys General Act of 2004.

38. The Parties subsequently agreed to mediate the Action with retired Orange County Superior Court Judge Stephen Sundvold in September 2017. In preparation, Defendants voluntarily provided time records and payroll history for 15% of the Settlement Class up to, and

1 including November 2016, plus various policies and wage data produced in formal discovery.
2 The mediation was unsuccessful.

3 39. On May 22, 2018, the Parties participated in a second mediation with Judge
4 Sundvold; however, the mediation was once again unsuccessful.

5 40. On July 30, 2019, Plaintiff filed his motion for class certification. Shortly
6 thereafter the Parties reached a settlement in principle which is memorialized herein.

7 41. Thereafter, Defendants provided Plaintiff's counsel with confidential financial
8 data related to the financial condition of the employer. The financial data was provided for
9 attorney's eyes only in order to provide a factual basis for the terms of settlement contained
10 herein.

11 42. Benefits of Settlement to Class Members. Plaintiff and Class Counsel recognize
12 the expense and length of continued proceedings necessary to litigate their disputes through trial
13 and through any possible appeals. Plaintiff has also taken into account the uncertainty and risk
14 of the outcome of further litigation, including the possibility that one or more of the alleged
15 classes may not be certified, and the difficulties and delays inherent in such litigation. Plaintiff
16 and Class Counsel are also aware of the burdens of proof necessary to establish liability for the
17 claims asserted in the Action, both generally and in response to Defendant's defenses thereto,
18 and the difficulties in establishing damages for the Settlement Class Members. Plaintiff and
19 Class Counsel have also taken into account the extensive settlement negotiations conducted.
20 Based on the foregoing, Plaintiff and Class Counsel have determined that the Settlement set forth
21 in this Agreement is a fair, adequate and reasonable settlement, and is in the best interests of the
22 Settlement Class Members.

23 43. Defendants' Reasons for Settlement. Defendants have concluded that any further
24 defense of this litigation would be protracted and expensive for all Parties. Substantial amounts
25 of time and resources of Defendants have been and, unless this Settlement is made, will continue
26 to be devoted to the defense of the claims asserted by Plaintiff and Settlement Class Members.
27 Defendants have also taken into account the risks of further litigation in reaching its decision to
28 enter into this Settlement. Despite continuing to contend that it is not liable for any of the claims

1 set forth by Plaintiff, Defendants have, nonetheless, agreed to settle in the manner and upon the
2 terms set forth in this Agreement to resolve the claims as set forth in the Action. Defendants
3 have claimed, and continue to claim, that the Released Claims have no merit and do not give rise
4 to liability. This Agreement is a compromise of disputed claims. Nothing contained in this
5 Agreement and no documents referred to herein and no action taken to carry out this Agreement
6 may be construed or used as an admission by or against Defendants as to the merits or lack
7 thereof of the claims asserted. The monies being paid as part of the settlement are genuinely
8 disputed and the parties agree that the provisions of Labor Code section 206.5 are not applicable
9 to this settlement.

10 44. Settlement Class Members' Claims. Settlement Class Members have claimed and
11 continue to claim that the Released Claims have merit and give rise to liability on the part of
12 Defendants. This Agreement is a compromise of disputed claims. Nothing contained in this
13 Agreement and no documents referred to herein and no action taken to carry out this Agreement
14 may be construed or used as an admission by or against the Settlement Class Members or Class
15 Counsel as to the merits or lack thereof of the claims asserted.

16 TERMS OF AGREEMENT

17 45. Release As To All Settlement Class Members. As of the Effective Date, in
18 exchange for the Gross Settlement Fund, Plaintiff and the Settlement Class Members release the
19 Released Parties from the Released Claims for the Class Period.

20 46. Plaintiff and the Settlement Class Members may hereafter discover facts in
21 addition to or different from those they now know or believe to be true with respect to the subject
22 matter of the Released Claims, but upon the Effective Date, shall be deemed to have, and by
23 operation of the final judgment shall have, fully, finally, and forever settled and released any and
24 all of the Released Claims, whether known or unknown, suspected or unsuspected, contingent or
25 non-contingent, which now exist, or heretofore have existed, upon any theory of law or equity
26 now existing or coming into existence in the future, including, but not limited to, conduct that is
27 negligent, intentional, with or without malice, or a breach of any duty, law or rule, without
28

1 regard to the subsequent discovery or existence of such different or additional facts.

2 47. Tax Liability. The Parties make no representations as to the tax treatment or legal
3 effect of the payments called for hereunder, and Settlement Class Members are not relying on
4 any statement or representation by the Parties or by the Settlement Administrator in this regard.
5 Settlement Class Members understand and agree that withholdings, including, but not limited to
6 Settlement Class Members' FICA and FUTA contributions, will be taken from that portion of the
7 Net Settlement Amount designated as wages, and that they will be responsible for the payment of
8 any employee taxes and penalties assessed on the payments described herein and will hold the
9 Parties free and harmless from and against any claims, liabilities, costs and expenses, including
10 attorney's fees, resulting in any way from personal tax treatment of the payments made pursuant
11 to this Agreement, including the treatment of such payments as not subject to withholding or
12 deduction for payroll and employment taxes. Defendants' share of employer payroll taxes and
13 other required employer withholdings, including but not limited to Defendants' FICA and FUTA
14 contributions, shall be paid separate and apart from the Gross Settlement Fund.

15 48. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this
16 section, the "acknowledging party" and each Party to this Agreement other than the
17 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision of this
18 Agreement, and no written communication or disclosure between or among the Parties or their
19 attorneys and other advisers, is or was intended to be, nor shall any such communication or
20 disclosure constitute or be construed or be relied upon as, tax advice within the meaning of
21 United States Treasury Department circular 230 (31 CFR part 10, as amended); (2) the
22 acknowledging party (a) has relied exclusively upon his, her or its own, independent legal and
23 tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not
24 entered into this Agreement based upon the recommendation of any other Party or any attorney
25 or advisor to any other Party, and (c) is not entitled to rely upon any communication or
26 disclosure by any attorney or adviser to any other party to avoid any tax penalty that may be
27 imposed on the acknowledging party, and (3) no attorney or adviser to any other Party has
28 imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax

1 strategies (regardless of whether such limitation is legally binding) upon disclosure by the
2 acknowledging party of the tax treatment or tax structure of any transaction, including any
3 transaction contemplated by this Agreement.

4 49. Settlement Administration. Within seven (7) calendar days after the Court grants
5 preliminary approval of this Agreement, Defendants shall provide the Settlement Administrator
6 with the Class Information for purposes of mailing Notice Packets to Settlement Class Members.

7 50. Notice By First Class U.S. Mail. Upon receipt of the Class Information, the
8 Settlement Administrator will perform a search based on the National Change of Address
9 Database to update and correct any known or identifiable address changes. Within seven (7)
10 calendar days after receiving the Class Information from Defendants as provided herein, the
11 Settlement Administrator shall mail copies of the Notice Packet, written in English and Spanish,
12 to all Settlement Class Members via First Class U.S. Mail. The Settlement Administrator shall
13 exercise its best judgment to determine the current mailing address for each Settlement Class
14 Member. The address identified by the Settlement Administrator as the current mailing address
15 shall be presumed to be the best mailing address for each Settlement Class Member. Any Notice
16 Packets returned to the Settlement Administrator as non-delivered on or before the Response
17 Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address
18 is provided, the Settlement Administrator shall promptly attempt to determine a correct address
19 by use of skip-tracing, or other search using the name, address and/or Social Security number of
20 the Settlement Class Member involved, and shall then perform a re-mailing, if another mailing
21 address is identified by the Settlement Administrator. Settlement Class Members who received a
22 re-mailed Notice Packet shall have their Response Deadline extended fourteen (14) days from
23 the original Response Deadline.

24 51. Claims. This is a no-claims settlement. All Settlement Class Members, who do
25 not properly seek exclusion from the settlement (as outlined in Paragraph 54 of this document)
26 will receive Individual Settlement Payments from the Net Settlement Amount. The calculation
27 of Individual Settlement Payments shall be as described in Paragraph 60 below.

28 52. Disputes Regarding Individual Settlement Payments. Settlement Class Members

will have the opportunity, should they disagree with Defendants' records regarding the dates of employment, to provide documentation and/or an explanation to show contrary employment dates. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. Counsel for the Parties will confer in good faith to resolve the dispute(s) and advise the Settlement Administrator if the Parties were able to resolve the dispute. Any dispute resolved by the Parties following conferring in good faith shall be binding upon the Settlement Class Member and the Parties. In the event that the Parties are unable to resolve the dispute, the Settlement Administrator shall determine the eligibility for and amount of any Individual Settlement Payment and provide its determination to the Parties in writing at least fifteen (15) days prior to any fairness hearing in this matter. Any Party shall have the right to raise the dispute to the trial court for resolution; however, the Party challenging the Settlement Administrator's determination shall have the burden of proof as to any error in the Settlement Administrator's determination and shall bear its own costs related thereto.

53. Disputes Regarding Administration of Settlement. Any disputes regarding or relating to the administration of the Settlement shall be resolved by the same process described in Paragraph 52.

54. Exclusions. The Notice Packet shall state that Settlement Class Members who wish to exclude themselves from the Settlement must submit a written request for exclusion by the Response Deadline. The written request for exclusion must state that the Settlement Class Member wishes to exclude himself or herself from the Settlement and (1) must contain the name, address, and the last four digits of the Social Security number of the person requesting exclusion; (2) must be signed by the Settlement Class Member; (3) must be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address, and (4) must clearly state the intention to be excluded from the Settlement. The request for exclusion will not be valid if it is not timely submitted, if it is not signed by the Settlement Class Member, or if it does not contain the name and address of the Settlement Class Member and articulate the intent to be excluded. The date of the postmark on the return mailing envelope on the request for exclusion shall be the exclusive means used to determine whether the request for exclusion was

1 timely submitted. Any Settlement Class Member who validly requests to be excluded from the
 2 Settlement Class will not be entitled to any recovery under the Settlement and will not be bound
 3 by the terms of the Settlement or have any right to object, appeal or comment thereon.
 4 Settlement Class Members who fail to submit a valid request for exclusion on or before the
 5 Response Deadline shall be bound by all terms of the Settlement and any final judgment entered
 6 in this Action if the Settlement is approved by the Court. No later than fourteen (14) calendar
 7 days after the Response Deadline, the Settlement Administrator shall provide counsel for the
 8 Parties with the total number of Settlement Class Members who have submitted valid written
 9 requests for exclusion. In addition to providing the list of individuals who have requested an
 10 exclusion to Defendant, if the total number of Settlement Class Members who have submitted
 11 valid written requests for exclusion is equal to or exceeds five percent (5%) of the Settlement
 12 Class, the Settlement Administrator shall provide the Parties with a list of the Settlement Class
 13 Members who have submitted valid written requests for exclusion. At no time shall any of the
 14 Parties or their counsel seek to solicit or otherwise encourage members of the Settlement Class to
 15 submit requests for exclusion from the Settlement.

16 55. Objections. The Notice Packet shall state that Settlement Class Members who
 17 wish to object to the Settlement must file with the Court and serve on all Parties a written
 18 statement of objection (“Notice of Objection”) by the Response Deadline. The date of filing and
 19 the date on the proof of service shall be deemed the exclusive means for determining that a
 20 Notice of Objection was filed and served timely. The Notice of Objection must be signed by the
 21 Settlement Class Member and state: (1) the full name of the Settlement Class Member; (2) the
 22 dates of employment of the Settlement Class Member; (3) the last four digits of the Settlement
 23 Class Member’s Social Security number; (4) the basis for the objection; and (5) if the Settlement
 24 Class Member intends to appear at the Final Approval/Settlement Fairness Hearing. Absent an
 25 order by the Court contrary to this paragraph, Settlement Class Members who fail to make
 26 objections in the manner specified above shall be deemed to have waived any objections and
 27 shall be foreclosed from making any objections (whether by appeal or otherwise) to the
 28 Settlement. Settlement Class Members who submit a timely Notice of Objection will have a

right to appear at the Final Approval/Settlement Fairness Hearing in order to have their objections heard by the Court. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class Members to file or serve written objections to the Settlement or appeal from the Order and Final Judgment. Any Settlement Class Member who submits a timely request for exclusion and who also objects to this Settlement shall be deemed to have validly excluded himself or herself from the Settlement and the objection shall be waived.

56. Funding and Allocation of Gross Settlement Fund. This is a non-reversionary, non-claims-made Settlement in which Defendants are required to pay the entirety of the Gross Settlement Fund as specified in this Agreement. No amount of the Gross Settlement Fund will revert to Defendants. Defendants' share of payroll taxes and other required withholdings from Individual Settlement Payments, including but not limited to FICA and FUTA contributions, shall be paid separate and apart from the Gross Settlement Fund.

57. Funding of the Gross Settlement Fund shall be made in monthly installments beginning within seven (7) calendar days after the Court grants preliminary approval of this Agreement according to the subsections below:

- a. Seven (7) calendar days following the Court's preliminary approval of this Agreement, Defendants shall commence the first of eighteen (18) monthly payments of five thousand dollars (\$5,000) towards the Gross Settlement Fund. Each monthly payment shall be due on or before the day of the month falling seven days after the date on which preliminary approval is granted. (For example, if preliminary approval is granted on February 13, 2020, then each monthly payment shall be due on the 20th of each month until Defendants obligation is completed. A total of ninety thousand dollars (\$90,000) shall be paid in monthly installments.
- b. One month following payment of the eighteenth installment, Defendants shall pay a balloon payment of sixty thousand dollars and zero cents (\$60,000.00) plus any payroll tax obligations of the employer.
- c. All payments made by Defendants shall be made to the Settlement Administrator

1 who shall hold all funds in trust until disbursement as described in Paragraph 64
2 herein.

3 58. Failure To Make Installment Payments. In the event that Defendants fail to make
4 any installment payment within five (5) calendar days of the date any such installment is due,
5 Defendants shall be deemed to have materially breached this Settlement Agreement and shall be
6 provided with five (5) additional calendar days to cure such breach. If Defendants fail to cure a
7 breach for failure to make any installment payment within the timeframe described herein, all
8 outstanding amounts shall be immediately due and payable, and interest shall accrue at the legal
9 rate on all unpaid portions of the Gross Settlement Fund from the date of the breach.

10 59. Individual Settlement Payments. Individual Settlement Payments will be paid
11 from the Net Settlement Amount and shall be paid pursuant to the settlement formula set forth
12 herein. Individual Settlement Payments shall be mailed by First Class U.S. Mail to Settlement
13 Class Members' last known mailing address within fourteen (14) calendar days after Defendants
14 provide funds to the Settlement Administrator for disbursement under this Agreement. Any
15 checks issued to Settlement Class Members shall remain valid and negotiable for one hundred
16 and eighty (180) days from the date of their issuance. After that time, any such unclaimed
17 checks will be distributed to *Cy Pres* Recipients as described in Paragraph 63 below. In such
18 event, those Class Members will nevertheless remain bound by the Settlement. Individuals will
19 be entitled to payment from the Net Settlement Amount based on their status as members of the
20 various Sub Classes described herein.

21 60. Calculation of Individual Settlement Payments. The calculation of Individual
22 Settlement Payments will involve the following steps:

23 A. The Net Settlement Amount will be divided and allocated as follows:

24 i. Sixty-five percent (65%) of the NSA shall constitute the Back of House
25 Settlement Fund.

26 1. The Compensable Weeks worked by each individual member of
27 the Back of House Sub Class shall be divided by the total
28 Compensable Weeks worked by all Back of House Sub Class

Members in order to establish the percentage of the Back of House Settlement Fund payable to each Back of House Sub Class member.

2. Forty percent (40%) of the Back of House Settlement Fund shall be designated as wages subject to payroll tax withholding; sixty percent (60%) shall be designated as penalties and interest.

ii. Thirty percent (30%) of the NSA shall constitute the Vacation Pay Settlement Fund. The Vacation Pay Settlement Fund shall be divided by the total Compensable Weeks worked by each individual member of the Former Employee Sub Class total Compensable Weeks worked by all Former Employee Sub Class Members in order to establish the percentage of the Former Employee Settlement Fund payable to each Former Employee Sub Class member.

B. The PAGA Employee Share shall be divided by the total number of Compensable Weeks during the Class Period in order to establish the PAGA Payment Ratio. The PAGA Payment Ratio will then be multiplied by the number of Compensable Weeks attributable to each member of the Settlement Class in order to determine the correct amount to be paid to each Settlement Class Member out of the PAGA Employee Share.

61. Class Representative Service Award. Plaintiff Alonso Hernandez agreed to serve as the class representative without the expectation of a Class Representative Service Award. However, Plaintiff has now identified himself, in the public record, as an individual who is willing to make class action employment claims. Among the considerations for any Class Representative Service Award are (a) that the Agreement provides a substantial benefit to the Settlement Class Members; (b) Plaintiff is not seeking an extraordinary amount, but a number that is reasonable and represents the amount of time and the risks associated with her

participation in this litigation; and (c) that Plaintiff is providing a general release of all claims. Plaintiff contends a Class Representative Service Award of five thousand dollars and zero cents (\$5,000.00) is reasonable and fair. The Class Representative Service Award shall be paid to Plaintiff from the Gross Settlement Fund no later than fourteen (14) calendar days after Defendant provides funds to the Settlement Administrator for disbursement under this Agreement. Defendant does not oppose Plaintiff's requested Class Representative Service Award.

62. Class Counsel Award. Class Counsel will submit an application for attorneys' fees not to exceed one-third of the Gross Settlement Fund (or fifty thousand dollars (\$50,000.00) as anticipated prior to any potential increase as described in Paragraph 65), plus actual costs not to exceed Eighteen Thousand Dollars (\$18,000). Any portion of the requested Class Counsel Award that is not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Class Counsel Award shall be paid to Class Counsel from the Gross Settlement Fund no later than fourteen (14) calendar days after Defendants provide funds to the Settlement Administrator for disbursement under this Agreement. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 – MISC to each Class Counsel for the payments made pursuant to this paragraph. Defendants do not oppose this application. This Settlement is not contingent upon the Court awarding Class Counsel any particular amount in attorneys' fees and costs.

63. Cy Pres. Any checks that remain unclaimed for 180 days after issuance shall be distributed pursuant to Code of Civil Procedure section 384, designated for nonprofit organizations or foundations to support projects that will benefit the class or similarly situated persons, or that promote the law consistent with the objectives and purposes of the underlying cause of action, to child advocacy programs, or to nonprofit organizations providing civil legal services to the indigent ("Cy Pres Recipients"). The funds resulting from unclaimed checks shall be distributed to Bet Tzedek.

64. Settlement Administration Costs. The Settlement Administrator shall be paid for

the costs of administration of the Settlement from the Gross Settlement Fund. The costs of administration for the disbursement of the Gross Settlement Fund are currently estimated to be Six Thousand Six Hundred Dollars and zero cents (\$6,600.00). This figure represents the Settlement Administrator's estimate of its fees to administer this Settlement, based on information it was provided about the issues in the case, the complexity of the Settlement, and the approximate sizes of the putative Classes. To the extent actual Settlement Administrations Costs are greater than \$6,600.00, such excess amount shall be taken out of the Net Settlement Amount, unless it is determined by the Court that such increased costs were caused by misconduct by Defendants, whether collectively or individually. No fewer than fourteen (14) days prior to the Final Approval Hearing, the Settlement Administrator shall provide the Parties with a statement detailing the costs of administration of this Settlement. The Settlement Administrator shall be paid the Settlement Administration Costs no later than fourteen (14) calendar days after Defendants provide funds to the Settlement Administrator for disbursement under this Agreement. The Settlement Administrator, on Defendants' behalf, shall have the authority and obligation to make payments, credits and disbursements, including payments and credits in the manner set forth herein, to Settlement Class Members calculated in accordance with the methodology set out in this Agreement and orders of the Court.

A. The Parties agree to cooperate in the Settlement administration process and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Parties each represent they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

B. The Settlement Administrator shall be responsible for:

1. Calculating the amount each Settlement Class Member is eligible to receive, processing and mailing payments to the Plaintiff, Class Counsel, and Settlement Class Members;
2. Printing, translating and mailing the Notice Packets to the

1 Settlement Class Members as directed by the Court;

2 3. Receiving and reporting the requests for exclusion and objections
3 submitted by Settlement Class Members;

4 4. Deducting taxes from Individual Settlement Payments and
5 distributing tax forms;

6 5. Establishing and maintaining a toll free informational telephone
7 support line to assist Class Members who have questions regarding
8 the Notice;

9 6. Issuing to Plaintiff, Settlement Class Members, and Class Counsel,
10 W-2, 1099 forms or other tax forms as may be required by law for
11 all amounts paid pursuant to this Agreement;

12 7. Conducting additional address searches for mailed Notices that are
13 returned as undeliverable. These searches may be done through a
14 class action locator service. To the extent new and more current
15 addresses are found, the Settlement Administrator will also reprint
16 and re-mail Notices accordingly;

17 8. Calculating Settlement Class Members settlement share, fielding
18 inquiries from Class Members, and administration of any requests
19 for exclusion. This service will include settlement proceed
20 calculations, printing and issuance of checks, and preparation of
21 W-2, 1099 Forms. Basic accounting for and payment of employee
22 tax withholdings will also be included as part of this service;

23 9. Informing Defendants of their employer-side tax liability, if any;

24 10. Processing and mailing tax payments to the appropriate state and
25 federal taxing authorities;

26 11. Providing declaration(s) as necessary in support of preliminary
27 and/or final approval of this Settlement;

28 12. Holding funds in trust until all installment payments are made by

Defendants or until otherwise ordered by the Court;

13. Other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform;

14. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities; and

15. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with an accounting of the Gross Settlement Fund and report the amount of all payments to be made to each Settlement Class Member by name and Social Security number.

16. No later than fourteen (14) calendar days after the deadline for Settlement Class Members to negotiate their checks as described in Paragraph **Error! Reference source not found.**, the Settlement Administrator shall provide counsel for the Parties with an accounting of the Gross Settlement Fund and declaration for the Court regarding the disposition of the Gross Settlement Fund.

C. No person shall have any claim against Defendants, Defense Counsel, Plaintiff, Settlement Class Members, Class Counsel or the Settlement Administrator based on distributions and payments made in accordance with this Agreement.

65. Increase of Gross Settlement Fund Upon Increase of Settlement Class Size. As of January 6, 2020, Defendants' best estimate of the number of eligible Settlement Class Members is 216. If the actual number of eligible Settlement Class Members is ten percent (10%) greater than this estimate, then the Gross Settlement Fund as defined in Paragraph 18 above shall be increased on a proportional basis for the number of eligible Settlement Class Members in excess of 237.

66. Final Settlement Approval Hearing and Entry of Final Judgment. Upon

1 expiration of the Response Deadline, with the Court's permission, a Final Approval/Settlement
2 Fairness Hearing shall be conducted to determine final approval of the Settlement along with the
3 amount properly payable for (i) the Class Counsel Award, (ii) the Class Representative Service
4 Award, (iii) Individual Settlement Payments, and (iv) the Settlement Administration Costs.
5 Pursuant to California Rule of Court 3.769(h), after granting Final Approval, the Court shall
6 retain jurisdiction over the Parties to enforce the terms of the judgment.

7 67. Nullification of Settlement Agreement. In the event: (i) the Court does not grant
8 preliminary approval; (ii) the Court does not grant final approval; (iii) the Court does not enter a
9 final judgment as provided herein; or (iv) the Settlement does not become final for any other
10 reason, this Settlement Agreement shall be null and void and any order or judgment entered by
11 the Court in furtherance of this Settlement shall be treated as void from the beginning. In such a
12 case, the Parties shall be returned to their respective statuses as of the date and time immediately
13 prior to the execution of this Agreement except as described in Paragraph 68, any funds paid by
14 any Party shall be returned to the Party who made such payment, and the Parties shall proceed in
15 all respects as if this Agreement had not been executed, except that any costs already incurred by
16 the Settlement Administrator shall be paid by Defendants, which Defendants may claim as a
17 recoverable cost in the event Defendants ultimately prevail in this litigation, such issue to be
18 decided by the Court, when ruling on what costs, if any, may be recovered by Defendant. In the
19 event an appeal is filed from the Court's final judgment, or any other appellate review is sought,
20 administration of the Settlement shall be stayed pending final resolution of the appeal or other
21 appellate review, but any fees incurred by the Settlement Administrator prior to it being notified
22 of the filing of an appeal from the Court's Final Judgment, or any other appellate review, shall be
23 paid to the Settlement Administrator within thirty (30) days of said notification.

24 68. Tolling. In the event that the Court does not enter a final judgment as provided
25 herein, pursuant to Code of Civil Procedure § 583.330, the Parties stipulate that the matter shall
26 be deemed stayed as of October 25, 2019 for purposes of calculating time limits under Code of
27 Civil Procedure § 583.310 (i.e. "the 5-Year Rule"). The time to bring the matter to trial shall
28 resume running upon the Court's entry of an order denying final approval of this Settlement

1 Agreement.

2 69. Personal Guarantee. Upon the Court granting final approval of this Settlement
3 Agreement, Judgment shall be entered against Defendants Wild Devil LLC and Joseph Manzella
4 jointly and severally. In the event that Defendant Wild Devil fails to make any installment
5 payment or default payment required by this Settlement Agreement, Defendant Joseph Manzella
6 shall be personally liable for any unpaid amounts owed under the terms of this Settlement
7 Agreement, including any statutory interest and reasonable attorney's fees incurred as a result of
8 any breach of this Settlement Agreement.

9 70. No Effect on Employee Benefits. Amounts paid to Plaintiff or other Settlement
10 Class Members pursuant to this Agreement shall be deemed not to be pensionable earnings and
11 shall not have any effect on the eligibility for, or calculation of, any of the employee benefits
12 (e.g., vacations, holiday pay, retirement plans, etc.) of the Plaintiff or Settlement Class Members.

13 71. No Admission By the Parties. Defendant denies any and all claims alleged in this
14 Action and denies all wrongdoing whatsoever. This Agreement is not a concession or admission,
15 and shall not be used against Defendant as an admission or indication with respect to any claim
16 of any fault, concession or omission by Defendant.

17 72. Exhibits and Headings. The terms of this Agreement include the terms set forth
18 in any attached Exhibits, which are incorporated by this reference as though fully set forth
19 herein. Any Exhibits to this Agreement are an integral part of the Settlement. The descriptive
20 headings of any paragraphs or sections of this Agreement are inserted for convenience of
21 reference only and do not constitute a part of this Agreement.

22 73. Interim Stay of Proceedings. The Parties agree to stay and hold all proceedings in
23 the Action, except such proceedings necessary to implement and complete the Settlement, in
24 abeyance pending the Final Approval/Settlement Fairness Hearing to be conducted by the Court.

25 74. Amendment or Modification. This Agreement may be amended or modified only
26 by a written instrument signed by counsel for all Parties or their successors-in-interest.

27 75. Entire Agreement. This Agreement and any attached Exhibits constitute the
28 entire Agreement among these Parties, and no oral or written representations, warranties or

1 inducements have been made to any Party concerning this Agreement or its Exhibits other than
2 the representations, warranties and covenants contained and memorialized in the Agreement and
3 its Exhibits.

4 76. Authorization to Enter Into Settlement Agreement. Counsel for all Parties
5 warrant and represent they are expressly authorized by the Parties whom they represent to
6 negotiate this Agreement and to take all appropriate actions required or permitted to be taken by
7 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
8 documents required to effectuate the terms of this Agreement. The Parties and their counsel will
9 cooperate with each other and use their best efforts to effect the implementation of the
10 Settlement. The persons signing this Agreement on behalf of Defendant represents and warrants
11 that they are authorized to sign this Agreement on behalf of Defendant. Plaintiff represents and
12 warrants that she is authorized to sign this Agreement and that she has not assigned any claim, or
13 part of a claim, covered by this Settlement to a third party.

14 77. Binding on Successors and Assigns. This Agreement shall be binding upon, and
15 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

16 78. California Law Governs. All terms of this Agreement and the Exhibits hereto and
17 any disputes arising hereunder shall be governed by and interpreted according to the laws of the
18 State of California.

19 79. Counterparts. This Agreement may be executed in one or more counterparts. All
20 executed counterparts and each of them shall be deemed to be one and the same instrument
21 provided that counsel for the Parties to this Agreement shall exchange among themselves copies
22 or originals of the signed counterparts.

23 80. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this
24 Settlement is a fair, adequate and reasonable settlement of this Action and have arrived at this
25 Settlement after extensive arms-length negotiations, taking into account all relevant factors,
26 present and potential.

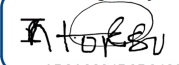
27 81. Jurisdiction of the Court. In accordance with California Rule of Court 3.769(h),
28 the Parties agree that the Court shall retain jurisdiction with respect to the interpretation,

1 implementation and enforcement of the terms of this Agreement and all orders and judgments
 2 entered in connection therewith, and the Parties and their counsel hereto submit to the
 3 jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement
 4 embodied in this Agreement and all orders and judgments entered in connection therewith.

5 82. Invalidity of Any Provision. Before declaring any provision of this Agreement
 6 invalid, the Court shall first attempt to construe the provisions as valid to the fullest extent
 7 possible consistent with applicable precedents so as to define all provisions of this Agreement as
 8 valid and enforceable.

9 83. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
 10 class certification for purposes of this Settlement only; provided, however, Plaintiff or Class
 11 Counsel may appeal any reduction in the Class Counsel Award.

12
 13 DATED: 2/8/2020
 14 _____, 2020

DocuSigned by:

 AB2A8234D8D0429...

ALONSO HERNANDEZ, Plaintiff

15
 16
 17 DATED: 01 / 31 / 2020
 18 _____, 2020

WILD DEVIL LLC, Defendant

19 By: JOSEPH P MANZELLA
 20 _____

Its:

21
 22 DATED: 01 / 31 / 2020
 23 _____, 2020

JOSEPH P MANZELLA

JOSEPH MANZELLA, Defendant

EXHIBIT A

ORANGE COUNTY SUPERIOR COURT
Alonso Hernandez v. Wild Devil LLC, et al.
Case No. 30-2016-00839840-CU-OE-CJC

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

To: ANY NONEXEMPT, HOURLY PAID EMPLOYEE OF DEFENDANT WILD DEVIL LLC WHO WORKED A MINIMUM OF THIRTY-TWO (32) HOURS DURING ANY WORKWEEK FROM MARCH 9, 2012 THROUGH [PRELIMINARY APPROVAL]

IF YOU DO NOTHING, YOU ARE EXPECTED TO RECEIVE APPROXIMATELY \$[INDIVIDUAL'S AMOUNT]

TO UNDERSTAND YOUR RIGHTS, READ THIS NOTICE CAREFULLY.

WILD DEVIL LLC WILL NOT TAKE ANY ACTION AGAINST YOU FOR PARTICIPATING IN THIS SETTLEMENT AND FULLY SUPPORTS THIS SETTLEMENT.

This Notice is Court Approved. This is not a solicitation from an attorney.

PLEASE READ THIS NOTICE CAREFULLY AS IT AFFECTS YOUR LEGAL RIGHTS

WHY DID I GET THIS NOTICE?

You received this Notice because we believe that you are a class member who may be entitled to money from this settlement. To receive money from this settlement you do not need to do anything.

This Notice describes a proposed settlement of the class action lawsuit *Alonso Hernandez v. Wild Devil LLC and Joseph Manzella*. (the "Lawsuit"). This Notice is being sent to you by order of the Orange County Superior Court, which preliminarily approved the settlement and conditionally certified the class on [DATE]. This Notice informs you of the terms of the proposed settlement, describes your rights in connection with the settlement, and explains what steps you may take to participate in, object to, or exclude yourself from the settlement. If you do not exclude yourself from the settlement and the Court finally approves this settlement, you will be bound to the terms of the settlement and any final judgment.

WHAT IS THIS SETTLEMENT ABOUT?

Alonso Hernandez ("Hernandez") filed the Lawsuit on March 9, 2016, against Wild Devil LLC ("Wild Devil") and its owner, Joseph Manzella ("Manzella") seeking damages for unpaid wages, inaccurate wage statements, failure to provide adequate meal breaks and paid rest breaks, unpaid wages at the time of termination including reporting time pay and accrued vacation pay, and penalties pursuant to the Private Attorney General Act of 2004 ("PAGA").

Hernandez is the Plaintiff and Class Representative in the Lawsuit. Wild Devil and Manzella are the Defendants.

Defendants deny all of the allegations, contend that the company complied with the law, and are prepared to defend the Lawsuit. Defendants agreed to this settlement as a compromise of disputed claims and to avoid ongoing litigation costs and disruption.

Because of financial concerns, Defendants will make installments over a 19-month period, after which time you will receive your portion of the Settlement.

WHY IS THERE A SETTLEMENT?

This Settlement is the result of substantial litigation, an extensive review of data, two mediations with retired Orange County Superior Court Judge Steven J. Sundvold, and ongoing

negotiations between the Parties. The negotiations process proceeded with an informed understanding of the law and the facts. The Court did not decide in favor of the Plaintiffs/Class or Defendants and Defendants have not admitted any wrongdoing. Instead, both sides agreed to a settlement after weighing the risks and expense of proceeding against the benefits obtained by all Parties, including compensation for the Settlement Class and the financial impact of a judgment for a substantial sum on the ability of class members to receive any money from this case. Given the totality of the circumstances, the Class Representative and his lawyers believe the settlement is best for the Class.

WHAT IS A CLASS ACTION?

In a class action lawsuit, one or more persons sue on behalf of other people who have similar claims. Alonso Hernandez is the Class Representative or Named Plaintiff in the Lawsuit, and asserts claims on behalf of himself and the Class. Wild Devil LLC and Joseph Manzella are the Defendants. A class action allows the Court to resolve the claims of all the class members at the same time. A class member is bound by the determination or judgment entered in the case, whether the class wins or loses, and may not file his or her own lawsuit on the same claims that were decided in the class action. A class action allows one court to resolve all of the issues in a lawsuit for all the class members who choose not to exclude themselves from the class.

WHO IS INCLUDED IN THE SETTLEMENT CLASS?

All nonexempt, hourly paid employees of Defendant Wild Devil LLC who worked a minimum of thirty-two (32) hours during any workweek from March 9, 2012 through [preliminary approval] (“Class Period”). The Settlement Class consists of the “Back of House” subclass and the “Former Employee” subclass as well. Some individuals will be included in one of the subclasses, while others will be included in both subclasses.

WHAT ARE THE TERMS OF THE CLASS SETTLEMENT?

In exchange for the release of claims against it and final judgment in the Lawsuit, Defendants will pay \$150,000 over a 19-month period (“Gross Settlement Fund”). After attorneys’ fees and costs, class representative enhancement awards, and settlement administration costs are deducted from the Gross Settlement Fund, the remaining Net Settlement Amount (“NSA”) will be distributed in a single distribution to all Settlement Class Members employed with Wild Devil during the Class Period as described below.

Class Counsel Award: Class Counsel will request up to one-third of the Gross Settlement Fund (\$50,000.00) as attorneys’ fees for litigation and resolution of the Lawsuit and actual expenses and actual costs not to exceed \$18,000, subject to a fee splitting agreement between Class Counsel. This amount will be paid from the Gross Settlement Fund at the end of the 19-month period. Any amount not awarded will revert to the NSA. The Class Counsel Award request is subject to the review and approval of the Court.

Class Representative Enhancement Award: Class Counsel will request an enhancement award for Plaintiff Alonso Hernandez of no more than \$5,000 to be paid out of the Gross Settlement Fund for their service to the class and general release of all individual claims. Any amount not awarded will revert to the NSA.

PAGA Payment: \$3,000 will be designated for payment of penalties pursuant to PAGA. \$2,250 shall be paid to the California Labor Workforce Development Agency as mandated by law and \$750 shall be disbursed to the PAGA Settlement Class as described below.

Settlement Administration: The cost of settlement administration is estimated at \$6,600, which pays for tasks such as mailing this Notice, calculating payments based on data provided by the parties, mailing checks and tax forms, and reporting to the parties and the Court.

HOW DOES THE SETTLEMENT AFFECT MY RIGHTS?

Unless you exclude yourself, you are a part of the Settlement, which means you cannot sue, continue to sue, or be part of any other lawsuit against Defendants, each of their respective parent

companies, subsidiaries, current and former management companies, shareholders, members, owners, agents (including without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns (“Released Parties”) about the legal issues in this case.

It also means that all of the Court’s orders will apply to you and legally bind you. If you are a member of the Back of House Subclass (indicated on page 1) you will release all claims which relate to or arise under any state or local law or state administrative order that was or could have been pled based on the facts alleged in the operative complaint relating to claims of failure to pay all wages due each pay period, failure to pay minimum wages, failure to pay overtime wages, failure to furnish accurate wage statements, violations of California’s meal and rest period laws, failure to pay accrued vacation wages upon termination, wage theft/time shaving, attorneys’ fees or litigation costs, violations of California *Labor Code* sections 201, 202, 203, 204, 226, 226.7, 227.3, including without limitation all related claims for restitution and other equitable relief arising under the Private Attorney General Act, *Business and Professions Code* §§ 17200 *et seq.*, and interest on unpaid wages. If you are a member of the Former Employee Subclass, you will release only claims which relate to unpaid accrued vacation wages and waiting time penalties pursuant to California *Labor Code* sections 203 and 227.3. The Released Claims specifically exclude claims for workers’ compensation, personal injuries, unemployment insurance, state disability compensation, claims under the Employment Retirement Income Security Act of 1974, previously vested benefits under any Employer-sponsored benefits plan, wrongful termination, discrimination, retaliation, and harassment including but not limited to those arising under the Age Discrimination In Employment Act, the California Fair Employment and Housing Act, Title VII of the Federal Civil Rights Act of 1964, and/or Federal Civil Rights Act of 1991, or any similar state or federal laws, the California Family Rights Act, the Federal Family Medical Leave Act, the California Pregnancy Leave Law, or similar state or federal laws, the Federal Equal Pay Act of 1963, violations of the Americans with Disabilities Act of 1990 or violations of any other state or federal law, rule or regulation concerning discrimination, retaliation and/or harassment.

HOW IS AN INDIVIDUAL SETTLEMENT PAYMENT DETERMINED?

Subject to Court approval, the Individual Settlement Payments from the NSA will be allocated as follows:

65% of the NSA is designated for payments to the Back-of-House subclass. The workweeks of all Back-of-House subclass members during the Class Period will be added up. The percentage of the total workweeks that each subclass member worked during the class period, will then be determined. The applicable percentage of weeks will be applied to the Back-of-House subclass to determine the individual subclass member’s allocation. For example, if a subclass member worked 1% of the total workweeks worked by all eligible Back-of-House subclass members during the class period and the Back-of-House Settlement Fund was \$100,000, that subclass member’s share of the Back-of-House Settlement Fund would be \$1,000.

35% of the NSA is designated for the Former Employee Subclass members whose employment terminated during the Class Period. The workweeks of all Former Employee subclass members worked during the Class Period will be added up. The percentage of the total workweeks that each subclass member worked during the class period, will then be determined. The applicable percentage of weeks will be applied to the Former Employee subclass to determine the individual subclass member’s allocation.

Each of the two subclasses shall be calculated separately. If you are a member of both subclasses, you will receive an allocation from both the Back-of-House Settlement Fund (65% of the NSA) and from the Former Employee Settlement Fund (35% of the NSA).

YOUR ESTIMATED SETTLEMENT PAYMENT IS: \$[INDIVIDUAL'S AMOUNT]. YOU HAVE [XX] COMPENSABLE WORKWEEKS WITHIN THE CLASS PERIOD AND ARE INCLUDED IN [THE BACK-OF-HOUSE SUBCLASS/THE FORMER EMPLOYEE SUBCLASS/BOTH SUBCLASSES].

WHAT DO I NEED TO DO TO RECEIVE A SETTLEMENT PAYMENT?

Subject to Court approval, if you are a member of the Settlement Class, you will automatically receive money from this settlement based on the formulas explained above. No further action is required. If you did not receive this notice at your current mailing address, or if your mailing address has changed, or will change, you will need to contact the settlement administrator at Simpluris, Inc. [ADMINISTRATOR ADDRESS] and provide your current mailing address, the name of the case and case number (*Hernandez v. Wild Devil LLC*, Case No. 30-2016-00839840-CU-OE-CJC), your full name, and the last four digits of your Social Security number.

Your estimated Settlement Payment is stated above. If you dispute the number of your compensable workweeks attributable to this settlement, set forth above, upon which your settlement share is based, you must advise the Settlement Administrator and provide documents substantiating your dispute.

WHAT IF I DON'T WANT TO PARTICIPATE IN THIS SETTLEMENT?

You have the right to exclude yourself from the settlement. To do so, you must mail a written statement requesting exclusion from the settlement postmarked no later than [OPT OUT DATE] to Simpluris, Inc. [ADMINISTRATOR ADDRESS].

To be valid, a written request for exclusion must state that you wish to be excluded, and (1) must contain the name, address, telephone number and the last four digits of the Social Security number of the person requesting exclusion; (2) must be signed by the Settlement Class Member; (3) must include the name of the case and case number (*Hernandez v. Wild Devil LLC*, Case No. 30-2016-00839840-CU-OE-CJC); and (4) must be postmarked by [OPT OUT DATE] and returned to the Settlement Administrator at the specified address. Unless you timely request to be excluded from the settlement, you will be legally bound by the judgment upon final approval of the settlement, including the Release described in this Notice.

If you timely request to be excluded from the settlement, you will not receive any payment under the settlement, you will not be bound by the orders of the court or the terms of the settlement, including the releases provided therein, and you may pursue a claim on an individual basis. Class Counsel will not represent your interests if you request to be excluded.

WHAT IF I WANT TO OBJECT TO THIS SETTLEMENT?

Any Settlement Class Member who has not asked to be excluded from the settlement may object to the settlement and appear at the hearing where the Court will make a final decision whether or not to approve the settlement (the "Final Approval Hearing").

You can object to any of the terms of the Settlement before the Final Approval Hearing. Failure to take the steps below will be deemed a waiver of your objections. If the Court rejects or overrules your objection, you will still be bound by the terms of the Settlement, but you will also receive a monetary award. To object, you must mail your written objection and a notice of intention to appear at the Final Approval Hearing postmarked no later than [OBJECTION DATE] to the Settlement Administrator to Simpluris, Inc. [ADMINISTRATOR ADDRESS]. You must include your name, address, telephone number, the name of the case and case number (*Hernandez v. Wild Devil LLC*, Case No. 30-2016-00839840-CU-OE-CJC), your signature, and the reasons you object to the settlement.

Only members of the Class who have filed and served timely written objections will be entitled to be heard at the Final Approval Hearing, unless the Court orders otherwise. You have the right to retain your own attorney, at your own expense, to submit an objection or appear on your behalf at the Final Approval Hearing. Objecting is not the same as excluding yourself from the settlement. If you

file an objection, you still remain eligible to receive an individual settlement award, and will still be bound by the Court's decision. You will not have an opportunity to opt-out after the Court's decision.

WHAT IS THE FINAL APPROVAL HEARING?

The Court has preliminarily approved the Settlement and will hold a hearing to decide whether to give final approval to the Settlement. The purpose of the Final Approval Hearing will be for the Court to determine whether the Settlement should be approved as fair, reasonable, adequate, and in the best interests of the Class; to consider the award of attorneys' fees and expenses to Class Counsel; and to consider the request for a service award to the representative Plaintiffs.

The Final Approval Hearing is scheduled to take place on [FINAL APPROVAL HEARING DATE], at XXX a.m. in [OC COURT ADDRESS].

The Final Approval Hearing may be continued without further notice to the Class Members. It is not necessary for you to appear at the Final Approval Hearing unless you have timely filed an objection with the Court. However, you have the right to attend the Final Approval Hearing and be represented by your own counsel at your own expense. If you plan to attend the Final Approval Hearing, you may contact Class Counsel to confirm the date and time. If the Settlement is not approved by the Court or does not become final for some reason, the Lawsuit may continue.

At the hearing, the Court will be available to hear any objections and arguments concerning the Settlement. You may attend, but you do not have to attend. You may speak at the Final Approval Hearing only if (a) you have timely served and filed an Objection, and (b) followed the procedures set forth above for notifying the Court and the parties that you intend to speak at the Final Approval Hearing.

If you have requested exclusion from the Settlement, however, you may not speak at the Final Approval Hearing.

WHAT HAPPENS IF I DO NOT EXCLUDE MYSELF FROM THIS SETTLEMENT?

The settlement, if finally approved by the Court, will bind all Settlement Class Members who do not request to be excluded from the settlement, whether or not they cash their Individual Settlement Payments. Final approval of the settlement will bar any Settlement Class Member who does not request to be excluded from the settlement from hereafter initiating a lawsuit or proceeding regarding the Released Claims during the period between March 9, 2012 and [DATE OF PRELIMINARY APPROVAL].

FURTHER INFORMATION

The foregoing is only a summary of the settlement. If you have any questions about the settlement, you can contact Class Counsel at the addresses listed below.

CLASS COUNSEL:

Kenneth A. Goldman
Law Office of Kenneth A. Goldman, PC
15303 Ventura Blvd., Ste. 1650
Sherman Oaks, CA 91403
Tel.: (818) 289-7689

Sahag Majarian, II
Law Offices of Sahag Majarian, II
18250 Ventura Boulevard
Tarzana, California 91356
Tel: (818) 609-0807 (Spanish speakers available)

WHAT HAPPENS IF MY INFORMATION CHANGES?

If, after you receive this Notice, you change your postal address or telephone number, it is your responsibility to inform the Settlement Administrator of your updated information.

PLEASE DO NOT TELEPHONE OR CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.