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Attorneys for PLAINTIFF MICKAEL HERSZKOWICS

FILED
Superior Court of California
County of Los Angeles

05/02/2023

David W. Slayton, Executive Officer / Clerk of Court

By: A. Williams Deputy

ANDREW J. ALVARADO, ESQ. (Texas State Bar No. 24118811)

Pro Hac Vice Application Pending

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Austin, Texas 78701

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Attorneys for Defendants,

LOANGUYS.COM, INC.

and JOSHUA NOURI

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MICKAEL HERSZKOWICS,
individually, and on
behalf of himself and others similarly
situated,

Plaintiff,

v.

LOANGUYS.COM, INC.;
JOSHUA NOURI, an individual; and
DOES 1 THROUGH 100, inclusive,

Defendants.

Case No.: 22STCV40948

[Assigned for all purposes to the
Hon. Rupert A. Byrdsong, Dept. 28]

**JOINT STIPULATION FOR ORDER
APPROVING SETTLEMENT PURSUANT
TO LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT OF 2004
(CAL. LAB. CODE § 2698, ET SEQ.);
[PROPOSED] ORDER**

Complaint Filed: December 30, 2022
Trial Date: TBD
Dept. 28

1 Plaintiff MICKAEL HERSZKOWICS ("Plaintiff") and Defendants LOANGUYS.COM,
2 INC. and JOSHUA NOURI ("Defendant"), (collectively, the "Parties"), by and through their
3 undersigned counsel, hereby stipulate and agree as follows:

4 1. **WHEREAS**, on or about July 19, 2022, Plaintiff's counsel mailed the necessary
5 correspondence to the LWDA on behalf of Plaintiff, requesting authorization from the LWDA to
6 seek civil penalties as provided by PAGA for the wage and hour violations alleged in the LWDA
7 notice. The 65-day notice period for the LWDA to notify of its intent to investigate expired on
8 September 22, 2022.

9 2. **WHEREAS**, Defendants vigorously dispute and deny the allegations and the
10 causes of action under the Labor Code, and Plaintiffs' claim for civil penalties pursuant to PAGA.

11 3. **WHEREAS**, the Parties engaged in extensive informal discovery and have
12 exchanged documents related to the claims alleged under this Action. The Parties have also
13 conducted extensive independent investigation and evaluations of the claims and defenses in this
14 matter. Both Plaintiffs' counsel and Defendants' counsel have significant experience litigating
15 and resolving the type of wage-and-hour claims alleged in the Action, including claims for civil
16 penalties under PAGA.

17 4. **WHEREAS**, on April 27, 2023, the Parties engaged in an arms-length
18 negotiations and the Parties reached an agreement to settle the PAGA claims, for \$2,500.00 (the
19 "Settlement Sum"), and have attached a true and correct copy of the executed Settlement
20 Agreement hereto as **Exhibit A**. (the "Settlement Agreement"). Said Settlement Sum, less costs,
21 shall be distributed among 6 aggrieved employees who worked 116 pay periods during the PAGA
22 Period, by a settlement administrator mutually selected by the Parties, as further outlined in
23 Exhibit A.

24 5. **WHEREAS**, California Labor Code Section 2699(1)(2) requires that this Court
25 review and approve any settlement that includes a settlement of claims under the PAGA.

26 6. **WHEREAS**, the Parties recognize that the issues presented in the Action are
27 likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further
28 litigation will cause inconvenience, distraction, disruption, delay and expense disproportionate to

1 the potential benefits of litigation. The Parties have taken into account the risk and uncertainty of
2 the outcome inherent in any litigation.

3 7. WHEREAS, based on their own independent investigations and evaluations, the
4 Parties and their respective counsel are of the opinion that the settlement of the Released Claims
5 on the terms set forth in the Settlement Agreement are fair, reasonable and adequate and is in the
6 best interests of the Parties, the LWDA, and Aggrieved Employees in light of all known facts and
7 circumstances and the risks inherent in litigation.

8 8. WHEREAS, the Parties recognize that this Court may, pursuant to California
9 Labor Code Section 2699(e)(2), award a lesser amount than the maximum civil penalty amount
10 permitted under PAGA if, based on the facts and circumstances of the particular case, to do
11 otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.

12 9. WHEREAS, the Parties agree that the Settlement Sum and the payment of the
13 PAGA Settlement Amount, is fair and reasonable to compensate Plaintiff for the general release
14 of all PAGA claims Plaintiff may have against Defendants, including, *inter alia*, Plaintiff's
15 individual claims for unpaid overtime wages, missed meal and rest periods, unfair business
16 practices, and their individual and representative claim for penalties under the PAGA.

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18 (continued on next page)
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1 10. **NOW THEREFORE**, the Parties jointly request that the Court enter an Order
2 approving the Settlement Agreement attached hereto as Exhibit A, and set an OSC re: Dismissal
3 of this action within 60-days of the date of the Order.

4 **IT IS SO STIPULATED.**

5 Respectfully submitted,

6 DATED: April 28, 2023

AKHAVAN & ASSOCIATES

7 By: 
8 BARDIA AARON AKHAVAN, ESQ.
9 Attorneys for PLAINTIFF
10 MICKAEL HERSZKOWICS

11 DATED: April 28, 2023

DICKINSON WRIGHT PLLC

12 By: 
13 ANDREW J. ALVARADO, ESQ.
14 Attorneys for Defendants,
15 LOANGUYS.COM, INC. and
16 JOSHUA NOURI

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PROPOSED ORDER

The Court, having considered the Joint Stipulation of Private Attorneys General Act (Cal. Lab. Code § 2698, *et seq.*) Settlement and Release Agreement, the Parties' Joint Stipulation for Approval of PAGA Settlement, and the pleadings and other records on file with the Court in this matter, and good cause appearing therefore, hereby ORDERS as follows:

1. The Court hereby APPROVES the Joint Stipulation of Private Attorneys General Act (Cal. Lab. Code § 2698, *et seq.*) Settlement and Release Agreement (the "Settlement Agreement").

2. The Settlement Agreement is hereby deemed incorporated herein as if expressly set forth, and has the full force and effect of an Order of this Court. The Settlement Agreement shall be enforced according to its terms.

Order to Show Cause Re: Dismissal set 7-14-2023 at 8:30 a.m.



Rupert A. Byrdsong

Rupert A. Byrdsong / Judge

DATED: 05/02/2023

JUDGE OF THE SUPERIOR COURT

EXHIBIT A

PAGA SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”), effective April 27, 2023, is made and entered into by Mickael Herszkowicz, on the one hand, and LoanGuys.com, Inc., and Joshua Nouri, on the other. This Agreement is made and entered into by Mickael Herszkowicz acting in his private attorney general capacity.

I. DEFINITIONS

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

1. “Action” means the action *Mickael Herszkowicz v. LoanGuys.com, Inc., et al.*, Case No. 22STCV40948, pending in the Superior Court of the State of California, County of Los Angeles.
2. “Aggrieved Employees” means all individuals who were employed by Defendants in California and classified as non-exempt employees during the period of July 19, 2022 to approval.
3. “Aggrieved Employee List” means the spreadsheet containing the list of Aggrieved Employees with their social security numbers, last known addresses, and their dates of employment and/or pay periods worked as an Aggrieved Employee during the PAGA Period prepared by Defendants upon the Court’s approval of the settlement.
4. “Agreement” means this Confidential Settlement Agreement and Release, effective April 27, 2023, entered into by the Parties in this Action.
5. “Court” means the Superior Court of California, County of Los Angeles.
6. “Defendants” mean LoanGuys.com, Inc. and Joshua Nouri, an individual.
7. “Plaintiff” means Mickael Herszkowicz.
8. “Effective Date” means the date on which the settlement for Plaintiff’s PAGA claim in the Action is approved through entry of an Order and Judgment and either (i) the California Court of Appeal or California Supreme Court has rendered a final judgment affirming the Order and Judgment, or (ii) sixty-one (61) calendar days have passed since notice of entry of the Order and Judgment has been given to the Parties and no timely appeal or request for review has been made.
9. “Final” means the latter of: (i) if no appeal is filed, the expiration date of the time for filing or noticing of any appeal from, or other challenge to, the Court’s Judgment (this time period shall not be less than sixty (60) calendar days after the Court’s Judgment is entered); (ii) the date affirmance of an

appeal of the Judgment becomes final; or (iii) the date of final dismissal of any appeal from the judgment or final dismissal of any proceeding on review of any court of appeal decision relating to the Judgment.

10. “Gross PAGA Settlement Amount” means the total sum of \$2,500.00 for payment of the administrative costs (presently estimated to be \$1,775.00), Attorneys’ Fees and Costs, and the PAGA Payment. The Gross PAGA Settlement Amount shall be all-in with no reversion to Defendant.
11. “Individual PAGA Payment” means the amount to be paid to each of the Aggrieved Employees out of the 25% of the PAGA Payment under Labor Code section 2699 with such individual shares to be based on the number of pay periods during which an individual worked as an Aggrieved Employee during the PAGA Period divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period. 100% of all Individual PAGA Payments will be considered payment of penalties, and the Aggrieved Employees will be issued an IRS Form 1099 and will be responsible for payment of any and all taxes that are due as a result of their PAGA penalty settlement payments.
12. “Judgment” means the final approval order and judgment entered by the Superior Court of California, County of Los Angeles in this Action.
13. “LWDA” means the California Labor Workforce Development Agency.
14. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code section 2698, *et seq.*
15. “PAGA Payment” means the total amount remaining in the Gross PAGA Settlement Amount after payment of attorneys’ fees, attorneys’ expenses and costs, and administration costs. The PAGA Payment shall be allocated under Labor Code section 2699 with 75% of the Section 2699 payment going to the LWDA and 25% to the Aggrieved Employees.
16. “PAGA Period” means the time period from July 19, 2022 to approval.
17. “Parties” means Plaintiff Mickael Herszkowicz and Defendants LoanGuys.com, Inc.
18. “Plaintiff’s Counsel” and/or “PAGA Counsel” means the law firm of Akhavan & Associates.
19. “Released Parties” means Defendants and any of their parent corporations, subsidiaries, divisions, affiliates, partners, shareholders, members, employees, agents, directors, officers, attorneys, landlords, licensees, lessors, insurers, reinsurers, employee benefits plans and plan fiduciaries, representatives, predecessors, successors, assigns, transferees, heirs, executors, administrators, and related entities, and all other persons, firms,

corporations, associations, partnerships, or entities having any legal relationship to each other.

II. RECITALS

1. Plaintiff's counsel mailed the necessary correspondence to the LWDA on July 19, 2022, on behalf of Plaintiff, requesting authorization from the LWDA to seek civil penalties as provided by PAGA for the wage and hour violations alleged in the LWDA notice. The 65-day notice period for the LWDA to notify of its intent to investigate expired on September 22, 2022.
2. On December 30, 2022, Plaintiff filed an individual action Complaint and a representative action under PAGA against Defendants alleging numerous violations of the California Labor Code in the Superior Court of the State of California, County of Los Angeles, Case No. 22STCV40948.
3. On April 27, 2023, through an arms-length negotiations the Parties reach an agreement to settle the Action.
4. As a result of the settlement, the Parties have agreed to fully and finally resolve Plaintiff's individual claims and PAGA claim alleged in the Action pursuant to this Agreement.

III. PAGA SETTLEMENT

- A. Non-Admission.** Nothing in this Agreement shall be construed to be an admission by Plaintiff that his claims do not have merit or by Defendants of any liability or wrongdoing as to Plaintiff, the Aggrieved Employees, or any other person, and Defendants specifically disclaim any such liability or wrongdoing. The Parties have entered into this Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. The Agreement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

Nothing in this Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the negotiations leading to this Agreement, is intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, by Defendants or any other Released Party. The Parties themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, or

for any other purpose. Notwithstanding the foregoing, this Agreement may be used in any proceeding before any court that has as its purpose the interpretation, implementation, or enforcement of this Agreement or any orders or judgments of the Court entered in connection with the Agreement.

None of the documents produced or created by Defendants or any other Released Party, Plaintiff or the Aggrieved Employees in connection with the claims procedures or claims resolution procedures constitute, and they are not intended to constitute, an admission by Defendants or any other Released Party of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.

Neither this Agreement nor any of its terms shall be offered or used as evidence by any of the Parties, or their respective counsel in the Action or in any other action or proceeding; provided, however, this shall not prevent this Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Agreement.

B. Timing. Within fifteen (15) days after the Effective Date of this settlement, Defendants shall pay \$2,500.00, less \$1,775.00 (to be reimbursed to Plaintiff's Counsel), as the Gross PAGA Settlement Amount. The Effective Date is the date on which the PAGA Settlement is approved through entry of an Order and Judgment and either (i) if there is an appeal or request for review, the California Court of Appeal or California Supreme Court has rendered a final judgment affirming the Order and Judgment, or (ii) sixty-one (61) calendar days have passed since notice of entry of the Order and Judgment has been given to the parties and no timely appeal or request for review has been made.

C. Payments from the Gross PAGA Settlement Amount. The Parties agree to the following allocations to be paid from the Gross PAGA Settlement Amount:

1. PAGA Payment: The PAGA Payment is the total of the Gross PAGA Settlement Amount, Administration Costs, which shall be paid in full settlement of the Released PAGA Claims. Should the amount of the PAGA Payment increase or decrease, the amount to be distributed shall be adjusted according to the changes made by the Court. The PAGA Payment will be subject to Court approval consistent with Labor Code §2699. Upon approval, the PAGA Payment shall be distributed as follows:

(a) The PAGA Payment shall be paid as a Labor Code section 2699 civil penalty payment allocated pursuant to PAGA as follows: 75% of the PAGA Payment will be paid to the LWDA and 25% will be paid to the Aggrieved Employees as their Individual PAGA Payments. Each Individual PAGA Payment shall be based on the number of pay periods each Aggrieved Employee worked during the PAGA Period as a percentage of the total pay periods worked by all Aggrieved Employees during the PAGA Period.

- (b) The penalty settlement payments set forth in section 4(a)(1) will be reported on IRS Form 1099s. The Parties acknowledge and agree that all payments under this Agreement as PAGA Payments are attributable as penalties. None are attributable as wages. Accordingly, the parties acknowledge and agree that Defendants are not responsible for any employer-side taxes in connection with any PAGA Payments under this Agreement.

2. Representative PAGA Release. In his capacity as a private attorney general “Aggrieved Employee” acting on behalf of the State of California and the Aggrieved Employees, and in consideration of the PAGA Payment and the payment to PAGA Counsel for Attorneys’ Fees and Attorneys’ Expenses and Costs, upon entry of the Judgment, the occurrence of the Effective Date and full funding, will release Defendants from any and all Released PAGA Claims.

D. Released PAGA Claims. Upon entry of Judgment, the Effective Date and full funding, the Defendant shall be entitled to a release from the State of California and the Aggrieved Employees for all “Released PAGA Claims”. “Released PAGA Claims” means the claims for civil penalties under California Labor Code §§ 2698 et seq., predicated on the California Labor Code violations that are asserted in the LWDA Notice and operative complaint in the Action which are for civil penalties pursuant to Labor Code section 2699, et seq. for violations alleged in or based on the facts asserted in the operative complaint in the Action, including Labor Code sections 200, 201, 203, 204, 226, 226.7, 227.3, 510, 512, 2810.5 and the applicable Wage Order(s), among other things. The release does not include underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability, and worker’s compensation, and claims outside of the PAGA Period. The Released PAGA Claims do not include any claims that cannot be released as a matter of law. In no event shall the release of the Released PAGA Claims in this Agreement release any individual claims of any individuals.

E. Covenants and Representations by Plaintiff.

1. Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Agreement.
2. Plaintiff acknowledges that he has read this Agreement, that he fully understand his rights, privileges and duties under the Agreement, and enters into this Agreement freely and voluntarily. Plaintiff further acknowledges he had the opportunity to consult with his attorneys to explain the terms of this Agreement and the consequences of signing this Agreement.
3. Plaintiff further agrees to seek a Judgment in the Action on the Released PAGA Claims.

F. **No Publicity.** Plaintiff shall not issue a press release, hold a press conference, or otherwise publicize the settlement other than in documents submitted to the Court.

G. **Stipulation for Approval of the PAGA Payment.**

The Parties shall file a Stipulation for Approval of PAGA Settlement, which shall include a proposed order and judgment from the Court approving the Settlement.

H. **Court Approval of the PAGA Settlement.** The Agreement is contingent upon the approval by the Court. If the Court should fail to approve this Agreement in the form agreed to by the Parties, the Parties agree to coordinate efforts to address the Court's questions or concerns. If after the Parties make at least three (3) good faith efforts, the Court does not approve this Agreement, or if appellate review is sought and on such review the Court's decision is materially modified or reversed, or if one or more of the terms of the Agreement are not approved or is materially modified or reversed or found to be invalid and the Parties in good faith do not believe that it would be possible to make non-material modifications that would address any concerns raised by the Court, then each of the Parties by and through Counsel shall have the right within ten (10) days of written notice thereof to elect to terminate the Agreement, in which event it shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Agreement.

I. **Administration of Settlement.**

1. After the execution of this Agreement, Plaintiff shall submit the signed Judgment and Order to the LWDA consistent with Labor Code section 2699(1)(2).
2. Defendants will administer the settlement of the PAGA Gross Amount of \$2,500.00, less costs of \$1,775.00 which shall be reimbursed to Plaintiff's counsel.
3. Defendants will issue to each Aggrieved Employee a check for their Individual PAGA Payment at their last known home address along with an explanatory letter which will be mutually approved by the parties. Checks will remain negotiable for one hundred eighty (180) days. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. Defendants will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address, Social Security number, phone number, credit reporting and social media of the Aggrieved Employee involved and will then perform a re-mailing. If an Aggrieved Employees' check is not cashed within 120 days after its first mailing to the Aggrieved Employees, Defendants shall send the affected Aggrieved Employees notice informing them that unless their check is cashed in the next 60 days, it will expire and become non-negotiable, and

offer to replace the check if it was lost or misplaced but not cashed. All checks not cashed within 180 days of payment shall be paid to the State Controller Fund in the name of the absent Aggrieved Employees, subject to Court approval and the Aggrieved Employees shall remain bound by the settlement. The Individual PAGA Payments are 100% penalties and shall be reported using IRS tax form 1099.

4. Within fifteen (15) days after receipt of the Gross PAGA Settlement Amount, Defendants will pay the Administration Costs and the portion of the PAGA Payment allocated to the LWDA from the Gross PAGA Settlement Amount.
5. Defendants will provide an accounting under oath to the parties of the amounts paid out.
6. Defendants make no representations or warranties with respect to tax consequences of any payment under this Agreement.

IV. **MISCELLANEOUS PROVISIONS**

- A. **Drafting.** The Parties agree that the terms and conditions of this Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Party shall be considered the "drafter" of this Agreement for purposes of having terms construed against that Party.
- B. **Successors.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.
- C. **Costs and Fees.** The Parties shall each bear their own costs, attorneys' fees, mediator fees, and other fees incurred in connection with this Agreement and in connection with the Action and Plaintiff's claims, except as otherwise set forth specifically herein.
- D. **Authority.** Defendants represent and warrant that the undersigned has the authority to act on behalf of Defendants and to bind Defendants to the terms of this Agreement. Plaintiff represents and warrants that he has the capacity to act on his own behalf and on behalf of all who might claim through them to bind his to the terms and conditions of this Agreement.
- E. **Governing Law.** This Agreement shall be construed under and governed by the laws of the State of California. This Agreement shall be deemed to have been entered into in Los Angeles County, California and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the parties to this Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Agreement, it shall be brought in the State of California, County of Los Angeles.

- F. Complete Agreement.** The Parties acknowledge and represent that this Agreement contains the entire understanding between them with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings between them, written and oral, with respect to the subject matter hereof. This Agreement cannot be amended or modified except by a writing signed by the Parties hereto or their successors-in-interest.
- G. Nullification of Settlement Agreement.** In the event that: (i) the Court does not approve the settlement of the Action as provided herein; or (ii) the settlement of the Action does not become final for any other reason, even after the after the Parties' three (3) good faith efforts to address the Court's questions or concerns as prescribed in Section I above, then this Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions.
- H. Judgment and Continued Jurisdiction.** After approval of this settlement, the Parties agree that the Court shall retain continuing jurisdiction over this case under CCP Section 664.6 to ensure the continuing implementation of the provisions of this settlement and that the time within which to bring this action to trial under CCP Section 583.310 shall be extended from the date of the signing of this Agreement by all Parties until the entry of the final approval order and judgment or if not entered the date this agreement shall no longer be of any force or effect. In the event that the Court does not approve the settlement after three (3) attempts by the Parties to render the terms acceptable to the Court under Section H, or if the final order and judgment is reversed on appeal, then there shall be no Effective Date and this Agreement shall become null and void.
- I. Authorization to Enter Into Settlement Agreement.** Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their Counsel will cooperate with each other and use their best efforts to effect the implementation of the settlement of the Action. If the Parties are unable to reach agreement on the form or content of any document needed to implement the settlement of the Action, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties may seek the assistance of the mediator to resolve such disagreement.
- J. Execution in Counterparts.** This Agreement is subject only to the execution of all Parties. However, this Agreement may be executed in one or more counterparts by facsimile, electronic signature, or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

- K. Invalidity of Any Provision.** Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.
- L. Waiver.** No waiver of any condition or covenant contained in this Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.
- M. Severability.** If any term or provision of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will continue to be valid and will be performed, construed, and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.
- N. Court Filings.** The Parties agree not to object to any Court filings consistent with and/or effectuating this Agreement.
- O. Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Agreement.
- P. Representation By Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel, and reviewed in full.
- Q. Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Agreement and receive approval from the Court.
- R. Confidentiality.** The Parties agree not to file a press release regarding the settlement, respond to press/media inquiries regarding the settlement (except to refer the person inquiring to the court file), or otherwise publicize or divulge to any other individual or entity the terms of this settlement, the amount of this settlement, or the negotiations that resulted in this settlement. This provision does not apply to submissions to the Court for purposes of obtaining approval of the settlement or submissions to the LWDA in order to comply with the requirements of PAGA, nor does this provision apply to any needed disclosures by Plaintiff or PAGA Counsel to their accountants.

- S. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Agreement, and further intend that this Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.
- T. **Denial of Liability.** The Parties expressly recognize that the making of this Agreement does not in any way constitute an admission or concession of wrongdoing on the part of Defendants or an admission or concession regarding the validity of the claims in the Action. Nothing in this Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation or lack of violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Agreement may be used in any proceeding in any court that has as its purpose the interpretation, implementation, or enforcement of the Agreement or any orders or judgments of the Court entered into in connection therewith.
- U. **No Admission of Liability or Wrongdoing by Defendants.** Defendants contend that all of their employees were compensated in compliance with the law, and that their conduct was not willful with respect to any alleged failure to pay any wages or penalties. Defendants have denied, and continue to deny, each of the claims and contentions alleged in the Action. Defendants have asserted and continue to assert defenses thereto, and have expressly denied and continue to deny any wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Action. Neither this Agreement, nor any action taken to carry out the terms of this Agreement, shall ever be construed as, offered, admitted, received or deemed to be evidence in any civil, criminal, administrative, or other proceeding against Defendants or any of the Released Parties, or may be used as an admission, concession, or indication by or against Defendants of any fault, wrongdoing, or liability whatsoever.
- V. **Stay of Litigation.** The Parties agree that the continuing litigation of the Action shall be stayed and that the time within which to bring this action to trial under Code of Civil Procedure Section 583.310 shall be extended from the date of the signing of this Agreement by all Parties until the entry of the final approval order and judgment or if not entered the date this agreement shall no longer be of any force or effect.

IN WITNESS THEREOF, the Parties each acknowledge that it/she has read the foregoing Agreement, accepts and agrees to the provisions contained in this Agreement, and hereby executes it voluntarily and with full understanding of its consequences.

DATED: May 1, 2023

PLAINTIFF

By:


Mickael Herszkowicz (May 1, 2023 13:47 PDT)
Mickael Herszkowicz

DATED: _____, _____

DEFENDANT JOSHUA NOURI

By:

Joshua Nouri

DATED: _____, _____

DEFENDANT LOANGUYS INC.

By:

By: _____
Its: _____

IN WITNESS THEREOF, the Parties each acknowledge that it/she has read the foregoing Agreement, accepts and agrees to the provisions contained in this Agreement, and hereby executes it voluntarily and with full understanding of its consequences.

PLAINTIFF

DATED: _____, _____

By: _____

Mickael Herszkowicz

DEFENDANT JOSHUA NOURI

DATED: 04/29, 2023

By: _____

Joshua Nouri

DEFENDANT LOANGUYS INC.

DATED: 04/29, 2023

By: _____

Joshua Nouri

By: _____

Its: _____

CEO

1
2 **PROOF OF SERVICE**

3 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

4 I am employed in the county of Los Angeles, State of California; I am over the age of 18
5 years and not a party to the within action; my business address is: 15760 Ventura Boulevard,
6 Suite 950, Encino, California 91436.

7 On **May 1, 2023**, I served true copies of the following documents(s) described as:

- 8 **1. JOINT STIPULATION FOR ORDER APPROVING SETTLEMENT PURSUANT**
9 **TO LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (CAL. LAB.**
10 **CODE § 2698, ET SEQ.); [PROPOSED] ORDER,**

11 on the interested parties in this action to as stated below:

12 Andrew J. Alvarado
13 **Dickinson Wright PLLC**
14 607 West 3rd Street, Suite 2500
15 Austin, Texas 78701
16 aalvarado@dickinsonwright.com

17 **X** **BY EMAIL:** by electronic mail transmission to the email address(es) listed.

18 **X** **(STATE) I declare under the penalty of perjury under the laws of the**
19 **State of California that the foregoing is true and correct.**

20 Executed on **May 1, 2023**, at Encino, California.

21 _____
22 Alexis Longoria
23 Alexis Longoria
24
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27
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