

1 Taras Kick (SBN 143379)
Taras@kicklawfirm.com
2 Greg Taylor (SBN 315128)
Greg@kicklawfirm.com
3 THE KICK LAW FIRM, APC
815 Moraga Drive
4 Los Angeles, California 90049
5 Telephone: (310) 395-2988
Facsimile: (310) 395-2088
6

7 Attorneys for Plaintiff ALBERT
LIZARRAGA, individually and on behalf
8 of all others similarly situated

9
10 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**
11 **CENTRAL DISTRICT – SPRING STREET COURTHOUSE**

12 ALBERT LIZARRAGA, individually and on
13 behalf of all others similarly situated,

14 Plaintiff,

15 v.

16 DIGBY SOUTHWEST, INC., an Arizona
17 Corporation; and DOES 1 through 100,
inclusive.

18 Defendants.
19
20
21

Case No.: 19STCV27901

CLASS ACTION

[Assigned to the Hon. Stuart M. Rice]

**DECLARATION OF MARY BUTLER
REGARDING NOTICE AND
SETTLEMENT ADMINISTRATION**

Date: November 13, 2023

Time: 10:30 a.m.

Place: Dept. 1

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

2
3

4
5
6
7

8
9
0
1

2
3
4
5
6
7
8
9
20
21

22

23
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
86

29
20
21
22
23
24
25
26
27
28

27

28

28

to provide additional information to the Class members. The website contains information including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval and Class Notice and are available for download from the website. The documents were posted July 19, 2023, and are accessible 24 hours a day, 7 days a week. After a final judgment is entered by the Court, it will be promptly posted on the website in order to provide notice of final judgment to the Class Members.

REQUESTS FOR EXCLUSION, OBJECTIONS AND CHALLENGES TO

CALCULATION OF WORKWEEKS

11. The deadline for Class Members to submit a Request for Exclusion, Object to the Settlement or Challenges to Calculations of Workweeks was September 18, 2023.

12. As of this date, Simpluris received 1 Request for Exclusion from a Class Member.

13. As of this date, Simpluris has not received any Objections to the Settlement from a Class Member.

14. As of this date, Simpluris has not received any Challenges to the Calculation of the number of Class Workweeks and PAGA Pay Periods from a Class Member.

BREAKDOWN OF SETTLEMENT FUND

15. As of this date, there are 1,534 Participating Class Members, who will be paid their portion of the Net Settlement Amount, estimated to be \$145,156.99. The Net Settlement Amount available to pay Participating Class Members was determined as follows:

Gross Settlement Amount:	\$300,000.00
Less Class Counsel Fees	-\$100,000.00
Less Class Counsel Costs	-\$17,517.01
Less Administrator Expenses	-\$17,326.00
Less Class Representative Service Payment	-\$10,000.00
Less Individual PAGA Payment	-\$2,500.00
<u>Less LWDA PAGA Payment</u>	<u>-\$7,500.00</u>
NET SETTLEMENT AMOUNT	\$145,156.99

16. As of this date, the *highest estimated* Individual Class Payment to be paid is approximately \$900.86 and the *average* Individual Class Payment to be paid is approximately \$94.63.

17. In addition, based on the data provided by Defendants, and according to the terms of the Settlement, there are two hundred forty-seven (247) PAGA Members who will receive their proportionate share of \$2,500.00 in PAGA penalties. The *highest estimated* PAGA payment is \$24.44 and the *average estimated* PAGA payment is \$10.12.

ADMINISTRATION COSTS

18. Simpluris' total costs for services in connection with the administration of this Settlement, including fees incurred and anticipated future costs for completion of the administration, are \$17,326.00. A breakdown of Simpluris' fees is attached hereto as "**Exhibit B**". Simpluris' work in connection with this matter will continue with the calculation of the Settlement checks, issuance and mailing of those Settlement checks, etc., and to do the necessary tax reporting on such payments.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 19th day of October 2023, at Frisco, TX.

Mary C Butler
Mary Butler

Exhibit A

COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

(Lizarraga, et al. v. Digby Southwest Inc., et al., LASC Case No. 19STCV27901)

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

«IMb|ullBarcodeEncoded»

«FirstName» «LastName» «BusinessName»

«Address1» «Address2»

SIMID «SIMID»
«Barcode»

«City», «State» «Zip»

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Defendant Digby Southwest, Inc. (hereinafter referred to as “DSW” or “Defendant”) for alleged wage and hour violations. The Action was filed by former DSW employee Albert Lizarraga (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class of all current and former drivers (“Class Members”) who worked for DSW in the State of California at any time during the Class Period; and (2) penalties under the California Private Attorney General Act (“PAGA”) for all Class Members who worked for DSW during the PAGA Period (“Aggrieved Employees”). The Class Period is from August 9, 2015, through November 1, 2022. The PAGA Period is from October 4, 2021, through March 28, 2023.

DSW denies the allegations Plaintiff is asserting in this Action and contends that it has properly paid all wages and complied with all applicable laws. The Court has not formed any opinions concerning the merits of the Action, and the Court has not ruled for or against Plaintiff as to the merits of any of his individual or class or PAGA claims. You will not be retaliated against by DSW for electing to participate or not participate in the settlement.

The proposed Settlement has two main parts: (1) a Class Settlement requiring DSW to fund Individual Class Payments, and (2) a PAGA Settlement requiring DSW to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on DSW’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$«MERGED_Class_EstSettAmnt_CALC» (less withholding) and your Individual PAGA Payment is estimated to be \$«MERGED_PAGA_EstSettAmnt_CALC»**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to DSW’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on DSW’s records showing that **you worked «MERGED_Class_WW_CALC» workweeks** during the Class Period and **you worked «MERGED_PAGA_WW_CALC» workweeks** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. **Your legal rights are affected whether you act or not act. Read this Notice carefully.** You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires DSW to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against DSW.

If you worked for DSW during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against DSW.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against DSW, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

DSW will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against DSW that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is SEPTEMBER 18, 2023	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. DSW must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by SEPTEMBER 18, 2023	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the NOVEMBER 13, 2023 Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on November 13, 2023. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by SEPTEMBER 18, 2023	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to DSW's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by September 18, 2023. See Section 4 of this Notice.
--	---

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of DSW. The Action accuses DSW of violating California labor laws by failing to pay minimum wages, overtime wages, timely wages due upon separation, and reimbursable expenses. The Action also accuses DSW of failing to provide meal periods, rest breaks, and accurate itemized wage statements and failing to maintain required records. The Action further accuses DSW of breach of contract, breach of the covenant of good faith and fair dealing, and unlawful and unfair business practices. Based on these claims, Plaintiff also alleges that DSW is liable for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: The Kick Law Firm, APC ("Class Counsel.")

DSW strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws. The Court has not formed any opinions concerning the merits of the Action, and the Court has not ruled for or against Plaintiff as to the merits of any of his individual or class or PAGA claims. You will not be retaliated against by DSW for electing to participate or not participate in the settlement.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether DSW or Plaintiff is correct on the merits. In the meantime, Plaintiff and DSW hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an amount to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and DSW have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, DSW does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) DSW has agreed to pay a fair, reasonable and adequate amount considering the strength and weaknesses of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. DSW Will Pay \$300,000 as the Gross Settlement Amount (Gross Settlement). DSW has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, DSW will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to one-third (33-1/3%) of the Gross Settlement, which is currently estimated to be \$100,000 to Class Counsel for attorneys' fees and up to \$30,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$16,826 to the Administrator for services administering the Settlement.
 - D. Up to \$10,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and DSW are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and DSW have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will irrevocably lost to you because they will be paid to a non-profit organization or foundation ("Cy Pres").

Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than September 18, 2023, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the September 18, 2023 Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against DSW.

6. You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against DSW based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and DSW have agreed that, in either case, the Settlement will be void: DSW will not pay any money and Class Members will not release any claims against DSW.
8. Administrator. The Court has appointed a neutral company, Simpluris, Inc. (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and DSW has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against DSW or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from any and all liabilities against the Released Parties during the Class Period that are or that could have been pled based on the facts alleged in the operative Complaint relating to the payment or non-payment of wages, reimbursements, statutory and civil penalties, based on alleged violations of Industrial Welfare Commission Wage Order No. 9, sections 11 and 12 and California Labor Code sections 200, 201, 202, 203, 204, 218.6, 221, 222.5, 223, 226, 226(e), 226.2, 226.3, 226.7, 400-410, 510, 512, 558, 558.2, 1174, 1174.5, 1193.6, 1194, 1194.2, 1197, 1197.1, 1198, 2698-2699, 2802, 2802(a), 2802(b), 2802(c), including the failure to pay wages for hours worked, minimum wage claims, meal break violations, rest break violations, failure to pay premiums for missed break violations, failure to pay overtime wages, failure to maintain required records, failure to indemnify employees for necessary expenses incurred in discharge of duties, unlawful deductions from wages, waiting time penalties, wage statement claims, breach of contract, breach of covenant of good faith and fair dealing, Unfair Competition Law violations (California Business & Professions Code section 17200, of seq), California Civil Code, California PAGA penalties under Labor Code § 2699, and any other claims that were alleged in the Case or which arise out of or directly or indirectly relate to such facts alleged in the Complaint (collectively the “Released Claims”). Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and DSW has paid the Gross Settlement and separately paid the employer-side payroll taxes, all Aggrieved Employees will be barred from asserting PAGA claims against DSW, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against DSW or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees’ Releases for Participating and Non-Participating Class Members are as follows:

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, the PAGA Notice, and ascertained in the course of the Action,

including wage and hour violations during the Class Period and/or PAGA Period under state or federal law.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$2,500 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in DSW's records, are stated in the first page of this Notice. You have until September 18, 2023, to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept DSW's calculation of Workweeks and/or Pay Periods based on DSW's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and DSW's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Lizarraga, et al. v. Digby Southwest Inc., et al.*, LASC Case No. 19STCV27901, and include your identifying information (full name, address, telephone number or an e-mail address, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by SEPTEMBER 18, 2023, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and DSW are asking the Court to approve. At least 16 days before the November 13, 2023 Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that

includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website www.simpluris.com/case-search/ or the Court's website <https://www.lacourt.org/documentimages/civilImages/SearchByCaseNumber.aspx>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is SEPTEMBER 18, 2023.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as *Lizarraga, et al. v. Digby Southwest Inc., et al.*, LASC Case No. 19STCV27901 and include your name, current address, telephone number, and approximate dates of employment for DSW and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on November 13, 2023 at 10:30 a.m. in Department 1 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website (www.simpluris.com/case-search/) beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything DSW and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at www.simpluris.com/case-search/. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, Case No. 19STCV27901. You can also make an appointment to personally review court documents in the Clerk's Office at the Spring Street Courthouse by calling (213) 310-7000.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

Name of Attorneys: Taras Kick; Greg Taylor

Email Address: taras@kicklawfirm.com; greg@kicklawfirm.com

Name of Firm: The Kick Law Firm, APC

Mailing Address: 815 Moraga Drive, Los Angeles, CA 90049

Telephone: (310) 395-2988

Settlement Administrator:

Name of Company: Simpluris, Inc.

Email Address: CaseSupport@Simpluris.com

Mailing Address: P.O. Box 26170 Santa Ana, CA 92799

Telephone: (888) 654-1276

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you will have no way to recover the money.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

Exhibit B



3194-C Airport Loop Drive
Costa Mesa, CA 92626
800-779-2104 www.simpluris.com

Estimate #:

15047V3

Prepared By:

Mike Sutherland

Estimate Date:

9/27/2022

Direct Dial #

321-223-5067

Email:

msutherland@simpluris.com

Plaintiff Attorney

Defense Attorney

Attorney/Client:

Greg Taylor

Attorney/Client:

Firm:

The Kick Law Firm, APC

Firm:

Email:

<greg@kicklawfirm.com>

Email:

Case Name: Digby (Lizarraga) : Settlement

2022/2023

Capped Fee* Not to exceed\$17,326

Terms:

1) Capped Fees assume that Simpluris will receive data in a Single Excel file with no substantial change in class size or response rate.

Total Possible Class Size:

1,750

Undeliverable Rate:

10%

Response Rate:

1%

Call Rate:

10%

Mailing Document Language:

English

Redistribution:

One

Reminder Post Card

Yes

State

AZ

Uncashed checks

State

Tax Reporting Years

Two

Case Setup			
Data Compilation - Develop Case Specific Response Tracking - Error Reports			
Category	Unit Value	# of Units	Total
Project Manager - Case Setup	\$125.00	6	\$750.00
Database Manager - Initial Data Analysis	\$140.00	6	\$840.00
Total			\$1,590.00

Notification			
Mailing Notice Pack- 4/6 pg Notice Double Sided - English			
Category	Unit Value	# of Units	Total
Mailing Notice Pack	\$0.50	1,750	\$875.00
Postage	\$0.53	1,750	\$927.50
NCOA/CASS/LACS	\$0.05	1,750	\$87.50
Undeliverable Processing	\$0.25	175	\$43.75
Skip Trace RUM	\$1.00	175	\$175.00
Remail	\$0.70	149	\$104.13
Postage	\$0.53	149	\$78.84
Reminder Post Card-CCD	\$0.40	875	\$350.00
Postage	\$0.36	875	\$315.00
Clerical	\$50.00	2	\$100.00
Total			\$3,056.71

Call Center			
Establish Case Specific Toll Free Number			
Category	Unit Value	# of Units	Total
Customer Service Reps/Call Center Support	\$75.00	4	\$300.00
800 # Charges	\$0.10	240	\$24.00
Total			\$324.00



Class Action Settlement Administration

3194-C Airport Loop Drive
Costa Mesa, CA 92626
800-779-2104 www.simpluris.com

Claims Administration

Process Mail, Claim Forms, Opt-Outs or Objections

Category	Unit Value	# of Units	Total
Database Manager	\$140.00	3	\$420.00
Dispute/Deficiencies - Send One Cure Letter	\$3.50	18	\$61.25
Claim Processing	\$3.50	18	\$61.25
Data Entry	\$50.00	1	\$50.00
Project Manager	\$125.00	3	\$375.00
Weekly Reporting to Counsel	WAIVED	12 Wks of Reporting	\$0.00
Total			\$967.50

Distribution			
Setup a Disbursement Account-			
Print & Mail Checks to Class Members - W2's / 1099's - File Reports with Appropriate Federal & State Taxing Authorities			
Account Management & Reconciliation.			
Category	Unit Value	# of Units	Total
Disbursement Data Preparation	\$140.00	4	\$560.00
Disbursement Manager - Data Validation	\$75.00	1	\$75.00
Setup Banking Account/QSF	\$750.00	1	\$750.00
Print & Mail-Check	\$2.00	1750	\$3,500.00
Postage	\$0.53	1750	\$927.50
Process Returned Checks	\$0.50	18	\$8.75
Skip Trace Search Undeliverable Checks	\$3.00	18	\$52.50
Remail Checks	\$3.00	18	\$52.50
Individual Federal/State Tax Reporting	\$500.00	2	\$1,000.00
QSF Reporting/Declaration	\$300.00	1	\$300.00
QSF Annual Tax Preparation Fee (2022)	\$1,350.00	2	\$2,700.00
Reissuing Checks/Mailing	\$3.00	18	\$52.50
Postage	\$0.53	18	\$9.28
Escheat management State	\$300.00	1	\$300.00
Disbursement Manager	\$125.00	4	\$500.00
Total			\$10,788.03



Class Action Settlement Administration

3194-C Airport Loop Drive
Costa Mesa, CA 92626
800-779-2104 www.simpluris.com

Case Wrap Up

Send Final Reports to Counsel

Category	Unit Value	# of Units	Total
Data Manager-Final Reporting	\$125.00	2	\$250.00
Clerical-Clean Up Any Misc	\$50.00	2	\$100.00
Project Manager-Wrap-up Final Issues	\$125.00	2	\$250.00
Total			\$600.00

Postage\$1,933.84

Total Case Costs\$17,326.24