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FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
JUN 23 2022
BY [signature]
SULMA TORRES, DEPUTY

Attorneys for Plaintiff, LESTER HARRIS, an individual, on his own behalf and on behalf of all others similarly situated

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

LESTER HARRIS, on his own behalf and on behalf of all others similarly situated, Plaintiff, v. NEXEM-ALLIED, LLC., a California Limited Liability Company; ILAD INC, a California Corporation; and DOES 1-100, inclusive, Defendants.	**CASE NO. CIVDS1937896** Assigned for all purposes to Hon. David Cohn Department S26 **[~~PROPOSED~~] ORDER and Judgment GRANTING PLAINTIFF'S MOTION FOR APPROVAL OF PAGA SETTLEMENT** Complaint filed December 18, 2019 February 24, 2020

[PROPOSED] ORDER

Plaintiff Lester Harris ("Plaintiff") filed a Motion for Approval of PAGA Settlement on April 11, 2022 and the Motion was heard on June 23, 2022. Appearing at this hearing were Kiley L. Grombacher of Bradley/Grombacher, LLP on behalf of Plaintiff, Rachel Lee of Lewis Brisbois Bisgaard & Smith LLP appeared on behalf of Defendant Nexem-Allied, LLC ("Defendant") and Karina Sterman of Greenberg Glusker LLP appeared on behalf of Defendant iLad Inc. ("Defendant") (collectively referred to as "Defendants"). The Court has reviewed the materials and information submitted by the parties and finds and orders as follows:

1. Plaintiff, on behalf of himself and as a representative of the State of California on behalf of other aggrieved employees, and Defendants have agreed to a Settlement of the above-captioned action.

2. The Court hereby grants approval of the Settlement based on the terms set forth in the Settlement Agreement and Release of PAGA Claims (the "Settlement Agreement" or the "Settlement"). All defined terms contained herein shall have the same meanings as set forth in the Settlement Agreement. The Settlement Agreement is attached hereto as **Exhibit 1**.

3. The Settlement Agreement was executed by Plaintiff and Defendants. The Court finds that the Settlement is entitled to judicial approval, and meets all of the requirements for approval of a settlement under the Labor Code Private Attorneys General Act (PAGA), including that the Parties complied with Labor Code § 2699(l)(2) by submitting a copy of the Settlement Agreement to the California LWDA.

4. Pursuant to Labor Code § 2699(l)(2), the Court has reviewed the settlement and finds the Settlement of PAGA claims described therein to be fair, adequate and reasonable. The Court also finds that the LWDA has not objected to the terms of the Settlement. The Court also finds that the requested attorneys' fees and costs, and costs of administration as set forth in the Settlement are reasonable and hereby are approved.

5. The Court approves and confirms the release and waiver of claims as provided for in the Settlement Agreement. Upon the Effective Date (as defined in the Agreement), Plaintiff, as a representative of the State of California and on behalf of himself and all PAGA Settlement

Members, will be bound (to the fullest extent allowed under the law) by the Releases as defined in the Agreement.

6. Neither the Agreement nor any of its terms are an admission of any liability or alleged violation of the Labor Code. This Order make no finding of any violation of the Labor Code, liability, or other wrongdoing. The Court acknowledges the Agreement is a good-faith compromise based upon the parties' assessment of the mutual risks and costs of further litigation. Neither this order, the settlement, nor any document referred to herein, nor any action taken to carry out the Settlement, may be construed as, or may be used as, an admission of any fault, wrongdoing, omission, concession or liability whatsoever by or against Defendants.

7. The Court directs the implementation of all remaining terms, conditions and provisions of the Settlement.

8. Plaintiff's Complaint is dismissed with prejudice. Pursuant to Code of Civil Procedure section 664.6, the Court shall retain continuing jurisdiction over the Parties to this action to ensure effectuation of the Settlement in accordance with the terms of the Settlement and this Order and Judgment.

9. Plaintiff shall submit a copy of this Order to the LWDA within ten (10) days of entry of this Order.

IT IS SO ORDERED.

DATED: 6/23/21

HON. DAVID COHN
JUDGE OF THE SUPERIOR COURT

EXHIBIT 1

SETTLEMENT AGREEMENT

This Confidential Settlement Agreement ("Settlement Agreement") is made and entered into between Plaintiff LESTER HARRIS ("Plaintiff"), acting in a private attorney general capacity, and Defendants NEXEM-ALLIED, LLC ("Nexem") and ILAD, INC. ("ILAD") (both entities referred to as "Defendants") (Plaintiff and Defendants collectively, the "Parties") for the purpose of settling any and all claims between them.

I. DEFINITIONS

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

1. "Action" means the matter entitled *Lester Harris v. Nexem-Allied, LLC and ILAD, Inc.,* San Bernardino Superior Court Case No. CIVDS1937896 filed on February 24, 2020, and as set forth in Plaintiff's correspondence to the California Labor and Workforce Development Agency dated December 16, 2019 ("LWDA Letter") .

2. "Defendants" mean Nexem-Allied, LLC, ILAD, Inc. and their past, present and future owners, officers, directors, employees, board members, shareholders, attorneys, insurers, reinsurers, customers, partners, investors, members, representatives, predecessors, parent companies, subsidiaries, affiliates, divisions, successors, agents and principals, and their heirs, estates, executors, administrators, servants, insurers, attorneys and assigns.

3. "Claims Administrator" means the entity that will handle the administration of the settlement. The Claims Administrator will be responsible for establishing a qualified settlement fund ("QSF") and issuing payments and appropriate tax forms to PAGA Settlement Employees, the LWDA, Plaintiff, and Plaintiff's Counsel. The Settlement Administration Costs will be paid from the Gross Settlement Amount. Settlement administration costs will be reported on an IRS Form 1099 issued to the Claims Administrator.

4. "Complaint" means the Complaint filed in San Bernardino Superior Court, Case No. CIVDS1937896.

5. "Court" means the Superior Court of California for the County of San Bernardino.

6. "Covered Position" means and includes all current and former hourly-paid, non-exempt temporary staffing employees employed by Nexem who worked at ILAD in the State of California from February 24, 2019 through the date of entry of the Order by the Court approving the settlement.

7. "Individual PAGA Payment" means the amount to be paid to each PAGA Settlement Employee out of 25% of the PAGA Payment, such individual share to be based on the number of pay periods during which a PAGA Settlement Employee was employed by Nexem and worked at ILAD during the PAGA Period. To determine each PAGA Settlement Employee's

payment from the PAGA Penalties Fund, Defendants will use the following formula: Settlement Payment = 25% of PAGA Penalties Fund × [Pay Periods Worked by individual PAGA Settlement Employee During the Settlement Period ÷ Total Pay Periods Worked by All PAGA Settlement Employees during the Settlement Period].

8. "LWDA" means the California Labor and Workforce Development Agency.

9. "Gross Settlement Amount" is the sum of Fifty-Five Thousand Dollars and Zero Cents ($55,000.00), which represents the total amount payable under this Settlement Agreement by Defendants, including, without limitation, payments to all PAGA Settlement Employees, payment to the LWDA, payment of Plaintiff's attorneys' fees and costs, payment of Plaintiff's incentive award and payment to the Claims Administrator for administration costs.

10. "Net Settlement Amount" is the amount remaining to distribute to the LWDA and PAGA Settlement Employees after the Court approved amounts for the following categories are subtracted from the Gross Settlement Amount: (a) Plaintiff's attorneys' fees; (b) Plaintiff's costs;(c) Plaintiff's incentive award; and (d) administration costs.

11. "PAGA" means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

12. "PAGA Payment" means 75% of the Net Settlement Amount which will be paid to the LWDA, and 25% of the Net Settlement Amount which will be paid to PAGA Settlement Employees.

13. "PAGA Period" means the time period from February 24, 2019 to the date of entry of the Order.

14. "PAGA Released Claims" mean all claims which were asserted in the LWDA Letter and Plaintiff's operative Complaint or reasonably could have been asserted in the Action based upon the facts alleged in the LWDA Letter and Plaintiff's operative Complaint, including, but not limited to, Defendants' failure to pay final wages/all wages owed in violation of Labor Code sections 200, 201, 203, 226, 1197 and 1198, and failure to provide employees with a recovery period to avoid heat and to adopt standards to reduce heat-related illnesses in violation of Labor Code sections 6720, 227.3(a) and Wage Order No. 9 Section 15; and claims relating to these allegations.

15. "PAGA Settlement Employees" consist of all individuals in a Covered Position during the PAGA Period, including Plaintiff, estimated to be approximately 311.

16. "Parties" mean Plaintiff and Defendants.

17. "Plaintiff's Counsel" means Marcus Bradley, Kiley Grombacher, and Lirit King of Bradley Grombacher, LLP and Sahag Majarian II of Law offices of Sahag Majarian II.

II. RECITALS

1. Plaintiff was performing work for ILAD in a Covered Position during the PAGA Period as a temporary employee of Nexem, and his employment ended on approximately August 21, 2019.

2. On December 16, 2019, Plaintiff provided written notice to the LWDA asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of Labor Code sections 200, 201, 203, 226, 1197 and 1198, and failure to provide employees with a recovery period to avoid heat and to adopt standards to reduce heat-related illnesses in violation of Labor Code sections 6720, 227.3(a) and Wage Order No. 9 Section 15.

3. On December 18, 2019, Plaintiff filed a Class Action Complaint entitled *Lester Harris v. Nexem-Allied, LLC, et. al.*, San Bernardino Superior Court Case No. CIVDS1937896, asserting a claim for Failure to Pay All Wages Owed in Violation of California Labor Code sections 200, 226, 1197 and 1998, Failure to Pay all Wages Owed at Termination, Failure to Adopt Standards that Minimize Excessive Indoor heat in Violation of California Labor Code sections 6720, 226.7, Wage Order No. 9, and Violation of California Business and Professions Code section 17200, et. seq. On February 24, 2020, Plaintiff filed a First Amended Complaint alleging civil penalties for violation of California Labor Code section 2698, *et seq.*

4. In response to Plaintiff's Counsel's request, Defendants provided Plaintiff's Counsel with information and documents pertaining to Plaintiff and other PAGA Settlement Employees in order for Plaintiff's Counsel to investigate Plaintiff's allegations and value the claims prior to mediation.

5. On December 13, 2021, the Parties participated in mediation before mediator Chris Barnes, Esq.

6. On December 13, 2021, the Parties agreed to fully and finally resolve the PAGA Released Claims as to Plaintiff and PAGA Settlement Employees.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission**. Nothing in this Settlement 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, PAGA Settlement Employees or any other person, and Defendants specifically disclaim any such liability or wrongdoing. The Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses and risks. This Settlement Agreement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

2. **Gross Settlement Amount**. Defendants shall pay the following amounts: 1) Nexem: $35,000; 2) ILAD: $20,000 for a total of Fifty-Five Thousand Dollars and Zero Cents

($55,000) as the Gross Settlement Amount. Defendants will not pay more than the Gross Settlement Amount.

3. **Net Settlement Amount**. The Parties agree that the following amounts should be subtracted from the Gross Settlement Amount, if approved by the Court, resulting in a Net Settlement Amount to distribute to the LWDA and PAGA Settlement Employees:

a. **PAGA Payment**. A portion of the PAGA Payment will be allocated to the LWDA and the remainder will be allocated to PAGA Settlement Employees in settlement of the PAGA Released Claims.

The PAGA Payment will be subject to Court approval consistent with California Labor Code section 2699.3(b)(4). Upon approval, the PAGA Payment in the estimated amount of $17,391.67 shall be allocated as follows:

(1) 75% - $13,043.75 – will be paid to the LWDA, as required by California Labor Code section 2699(i).

(2) 25% - $4,347.92 – will be divided on a pro rata basis among PAGA Settlement Employees and distributed in Individual PAGA Payments, as required by California Labor Code section 2699(i).

(3) The payments will be reported on IRS Forms 1099 issued to the LWDA and each PAGA Settlement Employee.

b. **Plaintiff's Attorneys' Fees and Costs**. Defendants will not oppose Plaintiff's request for attorneys' fees in the amount up to $18,333.33_ and costs up to $10,000 incurred in prosecuting this Action. In the event the Court approves a payment of less than $18,333.33 in fees and/or $10,000 in costs to Plaintiff, the difference will be added to the PAGA Payment. Defendants, via the Claims Administrator, will report these payments on IRS Form 1099 issued to Plaintiff's Counsel.

c. **Plaintiff's Incentive Award**. Defendants will not oppose Plaintiff's request for an incentive award in the amount up to $5,000_ for serving as the representative in this Action. In the event the Court approves a payment of less than $5,000 as an incentive award to Plaintiff, the difference will be added to the PAGA Payment. Defendants, via the Claims Administrator, will report this payment on IRS Form 1099 issued to Plaintiff.

d. **Administration Costs**. Defendants will not oppose the Claims Administrator's costs in the amount up to $4,275.00 for administering the settlement. In the event the Court approves a payment of less than $_4,275.00 for administration costs, the difference will be added to the PAGA Payment. Defendants, via the Claims Administrator, will report this payment on IRS Form 1099 issued to the Claims Administrator.

4. **Representative PAGA Release**. In his capacity as a private attorney general or "aggrieved employee" acting on behalf of himself, the State of California and PAGA Settlement

Employees, and in consideration of the PAGA Payment and the incentive payment awarded to him, Plaintiff hereby releases the Defendants and their past, present and future officers, directors, employees, board members, shareholders, attorneys, owners, insurers, reinsurers, customers, partners, investors, members, representatives, predecessors, parent companies, subsidiaries, affiliates, divisions, successors, agents and principals, and their heirs, estates, executors, administrators, servants, insurers, attorneys and assigns (collectively, the "Released Parties") from any and all PAGA Released Claims that arose during the PAGA Period.

5. **<u>Settled Claims</u>**. Upon entry of the Order approving the settlement, Plaintiff and all PAGA Settlement Employees will be forever barred from pursuing any and all claims for PAGA penalties under the California Labor Code, Wage Orders, regulations and/or other provisions of law alleged or reasonably could have been alleged based on the facts and claims asserted in this Action with respect to PAGA Settlement Employees based on the facts alleged in the LWDA Letter and operative Complaint against Defendants.

6. **<u>PAGA Released Claims</u>**. Plaintiff agrees that all PAGA Settlement Employees will release any and all claims that were asserted in the LWDA Letter and operative Complaintor reasonably could have been alleged based on the facts and claims made in the LWDA letter and Operative Complaint..

7. **<u>Waiver of California Civil Code section 1542</u>**. Plaintiff represents that he is not aware of any claims he may have against the Released Parties other than the PAGA Released Claims. As a material inducement for Defendants to enter into this settlement, Plaintiff waives any and all rights and benefits conferred by the provisions of section 1542 of the California Civil Code and any similar law of any state or territory of the United States or other jurisdiction. This section provides as follows:

> **<u>"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."</u>**

Plaintiff understands and acknowledges that this Settlement Agreement is meant to include in its effect all PAGA Released Claims, all individual claims asserted by Plaintiff in the Action, and other claims which Plaintiff does not know or suspect to exist in his favor against the Released Parties.

8. **<u>Covenants and Representations by Plaintiff and Plaintiff's Counsel</u>**.

a. 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 Settlement Agreement.

b. Plaintiff acknowledges that he has read this Settlement Agreement, that he fully understands his rights, privileges and duties under the Settlement Agreement, and enters into this Settlement Agreement freely and voluntarily. Plaintiff further acknowledges that he has had the opportunity to consult with his attorneys to explain the terms of this Settlement Agreement and the consequences of signing this Settlement Agreement.

9. **Confidentiality**. Except as provided below, to the extent necessary to effectuate the settlement or as required by court or legal process, Plaintiff and Plaintiff's Counsel will not publicize the terms of this Settlement Agreement. Neither Plaintiff nor Plaintiff's Counsel shall issue a press release, hold a press conference, publish information about the settlement on any website or through any social media or otherwise publicize the settlement or communicate its terms in public or in private, unless ordered by the Court.

To permit judicial review and approval of the PAGA Payment, as required by Labor Code section 2698, *et seq.*, Plaintiff's Counsel may disclose to the Court the amounts to be paid to the LWDA and PAGA Settlement Employees to resolve the Action, and that attorneys' fees and costs will be paid to Plaintiff, an incentive award will be paid to Plaintiff and administration costs will be paid to the Claims Administrator (without disclosing the amounts or other details, unless required by the Court).

10. **Filing of Motion for Approval of PAGA Settlement by Plaintiff's Counsel**. Plaintiff's Counsel shall be responsible for preparing the Motion for Approval of the PAGA Settlement and providing defense counsel with an opportunity to propose revisions to the Motion prior to filing. Plaintiff's Counsel will file the Motion, which is mutually agreed to by the Parties, on or before March 1, 2022. Plaintiff's Counsel will serve the Motion on defense counsel and the LWDA.

11. **Termination of Settlement Agreement**. If the Court does not approve the settlement, if the Court does not dismiss the Action with prejudice, as provided for in this Settlement 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 Settlement Agreement is not approved or is materially modified or reversed or found to be invalid, then Defendants shall have the right within 10 days of written notice thereof to elect to terminate the Settlement Agreement, in which case 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 Settlement Agreement.

12. **Dismissal**. No later than 10 days after the settlement is fully administered, Plaintiff's Counsel will file a Request for Dismissal dismissing the Action in its entirety. The dismissal will be with prejudice. This Settlement Agreement is expressly conditioned upon the Court entering the dismissal of the Action in its entirety. The dismissal will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and PAGA Settlement Employees. In addition, Plaintiff agrees to waive any and all rights he may have under California Civil Code section 1542.

IV. ADMINISTRATION OF SETTLEMENT

1. **Claims Administrator**. The Parties will mutually select a Claims Administrator to handle the administration of this settlement.

2. **Information for PAGA Settlement Employees**. Within 30 days after entry of the Order approving the settlement, Defendants shall provide the Claims Administrator with information for PAGA Settlement Employees. Defendants will in good faith compile from its records a list of PAGA Settlement Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each PAGA Settlement Employee's full name, last known mailing address, last known telephone number, start date(s) of employment, end date(s) of employment, total pay periods worked and Social Security numbers to the extent available from Defendants' records. The list shall also include the sum total of all pay periods for PAGA Settlement Employees. Because Social Security numbers are included in the list, the Claims Administrator will maintain the list in confidence, and access shall be limited to those with a need to use the list as part of the administration of the settlement.

3, **Funding of the Settlement.** Within thirty (30) days after entry of the Order, Defendants will deposit the Gross Settlement Amount into the QSF to be established by the Claims Administrator. Within fourteen (14) days after the funding of the Settlement, the Claims Administrator will issue payments to: (a) all PAGA Settlement Employees; (b) the Labor and Workforce Development Agency; (c) Plaintiff; (d) Plaintiff's Counsel; and (e) itself. The Claims Administrator, and not Defendants, will issue the appropriate tax forms for all payments issued under this Settlement.

4. **Explanatory Letter Individual PAGA Payments**. Upon receipt of the information for PAGA Settlement Employees, the Claims Administrator will perform a search on the National Change of Address database to update the PAGA Settlement Employees' addresses. Within 14 days after receiving the information for PAGA Settlement Employees as provided herein, the Claims Administrator shall mail copies of the explanatory letter, which will be mutually approved by the Parties (attached hereto as Exhibit A), and Individual PAGA Payments to all PAGA Settlement Employees via regular First Class U.S. Mail.

The Claims Administrator will calculate and distribute 25% of the PAGA Payment on a pro rata basis to all PAGA Settlement Employees. The Claims Administrator will calculate the amount to be received by each PAGA Settlement Employee, which will be based on the number of pay periods that a PAGA Settlement Employee worked during the PAGA Period. The Claims Administrator will send each PAGA Settlement Employee a check for his or her share of the PAGA Payment along with an explanatory letter. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties and reported using IRS Form 1099.

5. **Undeliverable Notices**. The Claims Administrator shall exercise its best judgment to determine the current mailing address for each PAGA Settlement Employee. The address identified by the Claims Administrator as the current mailing address shall be presumed to be the best mailing address for each PAGA Settlement Employee. It will be conclusively

presumed that, if an envelope so mailed has not been returned within 30 days of the mailing, the PAGA Settlement Employee received the explanatory letter and Individual PAGA Payment.

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. If no forwarding address is provided, the Claims Administrator will promptly attempt to determine the correct address using a skip-trace or other search using the name, address or Social Security number of the PAGA Settlement Employee involved, and will perform a single re-mailing.

Funds represented by checks returned as undeliverable and those checks remaining un-cashed for more than 180 days after issuance will be tendered to the California Department of Industrial Relations Unpaid Wage Fund in the names of PAGA Settlement Employees.

6. **Accounting**. Within 60 days after the Court approves the settlement, the Claims Administrator will provide an accounting under oath to the Parties of the amounts paid from the settlement.

7. **Tax Consequences**. Defendants make no representations or warranties with respect to tax consequences of any payment under this Settlement Agreement, do not intend anything contained in this Settlement Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement Agreement be relied upon as such. Plaintiff and PAGA Settlement Employees will be solely responsible for correctly characterizing any compensation received under the settlement on his/her personal income tax returns for tax purposes, and paying all appropriate taxes due for any and all amounts paid to them under the settlement.

V. MISCELLANEOUS PROVISIONS

1. **Drafting**. The Parties agree that the terms and conditions of this Settlement 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 Settlement Agreement for purposes of having terms construed against that Party.

2. **No Impact on Benefit Plans**. To the extent applicable, neither the Settlement Agreement nor any amounts paid to Plaintiff or any PAGA Settlement Employee under the settlement will modify any previously credited hours or service under any employee benefit plan, policy or bonus program sponsored by Defendants. Such amounts will not form the basis for additional contributions to, benefits under or any other monetary entitlement under Defendants' sponsored benefit plans, policies or bonus programs. The payments made under the terms of this Settlement Agreement shall not be applied retroactively, currently or on a going-forward basis, as salary, earnings, wages or any other form of compensation for the purposes of any benefit plan, policy or bonus program. Defendants retain the right, if necessary, to modify the language of its benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement Agreement are not for "hours worked," "hours paid," "hours of service" or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

3. **Successors**. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors.

4. **Costs and Fees**. The Parties shall each bear their own costs, attorneys' fees, mediator fees and other fees incurred in connection with this Settlement Agreement, the Action and Plaintiff's claims, except as otherwise set forth specifically herein.

5. **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 Settlement 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 him to bind her to the terms and conditions of this Settlement Agreement.

6. **Governing Law**. This Settlement Agreement shall be construed under and governed by the laws of the State of California. This Settlement Agreement shall be deemed to have been entered into in Los Angeles, 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 Settlement Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the State of California, County of Los Angeles.

7. **Complete Agreement**. The Parties each acknowledge and represent that no promise or representation not contained in this Settlement Agreement has been made to them, and acknowledge and represent that this Settlement Agreement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA claim. This Settlement Agreement cannot be amended or modified except by a writing signed by the Parties hereto.

8. **Nullification of Settlement Agreement**. In the event that: (i) the Court does not approve the settlement as provided herein; or (ii) the settlement does not become final for any other reason, then this Settlement 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.

9. **Judgment and Continued Jurisdiction**. After approval of this settlement, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement.

10. **Entire Agreement**. This Settlement Agreement constitutes the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties.

11. **Amendment or Modification**. This Settlement Agreement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest

or counsel for all Parties.

12. **Authorization to Enter into Settlement Agreement**. Counsel for all Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

13. **Binding on Successors and Assigns**. This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

14. **California Law Governs**. All terms of this Settlement Agreement and exhibits hereto will be governed by and interpreted according to the laws of the State of California.

15. **Execution and Counterparts**. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

16. **Acknowledgement that the Settlement is Fair and Reasonable**. The Parties believe this Settlement Agreement is a fair, adequate and reasonable settlement of the Action, and have arrived at this settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this settlement.

17. **Invalidity of Any Provision**. Before declaring any provision of this Settlement 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 Settlement Agreement valid and enforceable.

18. **Severability**. If any term or provision of this Settlement Agreement is held to be invalid or unenforceable, the remaining portions of this Settlement 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.

19. **Waiver**. No waiver of any condition or covenant contained in this Settlement

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.

20. **Enforcement Action**. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

21. **Mutual Preparation**. The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement 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 Settlement Agreement.

22. **Representation by Counsel**. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full.

23. **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 Settlement Agreement.

24. **Binding Agreement**. The Parties warrant that they understand and have full authority to enter into this settlement, and further intend that this Settlement 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.

25. **Denial of Liability**. The Parties expressly recognize that the making of this Settlement Agreement does not in any way constitute an admission or concession of wrongdoing on the part of Defendants. Nothing in this settlement, 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 this 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 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 Settlement Agreement may be used in any Court proceeding that has as its purpose the interpretation, implementation or enforcement of the settlement or any orders or judgments of the Court entered into in connection therewith.

IN WITNESS THEREOF, the Parties acknowledge that they have read the foregoing Settlement Agreement, accept and agree to the provisions contained in this Settlement Agreement and hereby execute it voluntarily and with full understanding of its consequences.

Signatures on Next Page

PLAINTIFF:

Dated: 2/22/2022

By: DocuSigned by: Lester Harris
LESTER HARRIS

DEFENDANTS:

Dated: ______________

By: ______________
ILAD, INC.
Title: ______________
Name: ______________

Dated: ______________

By: ______________
NEXEM-ALLIED, LLC
Title: ______________
Name: ______________

IN WITNESS THEREOF, the Parties acknowledge that they have read the foregoing Settlement Agreement, accept and agree to the provisions contained in this Settlement Agreement and hereby execute it voluntarily and with full understanding of its consequences.

Signatures on Next Page

PLAINTIFF:

Dated: 2/22/2022

DocuSigned by:

By: Lester Harris

LESTER HARRIS

DEFENDANTS:

Dated: 03/02/2022

By:

ILAD, INC.

Title: President

Name: Eric Shepnick

Dated: ____________

By: ____________

NEXEM-ALLIED, LLC

Title: ____________

Name: ____________

IN WITNESS THEREOF, the Parties acknowledge that they have read the foregoing Settlement Agreement, accept and agree to the provisions contained in this Settlement Agreement and hereby execute it voluntarily and with full understanding of its consequences.

Signatures on Next Page

PLAINTIFF:

Dated: ______________ By: ______________________
LESTER HARRIS

DEFENDANTS:

Dated: ______________ By: ______________________
ILAD, INC.
Title: ______________________
Name: ______________________

Dated: 2-28-22 By: Wendy Wellman
NEXEM-ALLIED, LLC
Title: CAO
Name: Wendy Wellman