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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA**

ANDRES ARRIAGA, individually and on behalf
of all individuals similarly situated,

Plaintiff,

v.

1576 MISSION DRIVE, LLC dba THE
LANDSBY, a California limited liability
company; SIMA MANAGEMENT
CORPORATION, a California Corporation;
KEVIN J. BURNES, an individual; and JAMES P.
KNELL, an individual; and DOES 1 through 25,
Inclusive,

Defendants.

) **Case No.:** 23CV05580
) Hon Jed Beebe
) Dept 4
) Date Filed: December 15, 2023
)

) **DECLARATION OF ZACHARY CANTOR**
) **IN SUPPORT OF MOTION FOR**
) **PRELIMINARY CLASS ACTION AND**
) **PAGA SETTLEMENT APPROVAL**
)

) **Hearing Date: January 23, 2025**
) **Hearing Time: 8:30 a.m.**
) Dept: SM4
)
)
)

I, Zachary Cantor, declare as follows:

1. I am counsel of record for Plaintiff Andres Arriaga and the putative class in this action.

I am a member in good standing of the State Bar of California and the United States District Courts for the Northern, Central, Western and Southern Districts of California; and of the United States Court of Appeals for the Ninth Circuit. I submit this declaration in support of Class Counsel's Motion for Preliminary Approval of the Class Settlement. I make this Declaration based on personal knowledge and if called to testify, I could and would competently testify to the matters contained herein.

1 2. This class action was filed on December 15, 2023 by Plaintiff Andres Arriaga, on his own behalf
2 and on behalf of all other similarly situated hourly employees of Defendant 1576 Mission Drive, LLC
3 (“Defendant” or “1576 Mission”) in the state of California (the “Lawsuit”). The putative class action
4 complaint against Defendant alleges causes of action for: (1) failure to pay wages, including minimum
5 wage and overtime; (2) failure to provide rest periods or pay one hour of additional wages in lieu thereof;
6 (3) failure to provide meal periods or pay one hour of additional wages in lieu thereof; (4) failure to pay
7 reporting time wages and other wages; (5) failure to timely pay compensation due and owing in violation
8 of California Labor Code § 203; (6) failure to comply with itemized employee wage statement provisions;
9 and (7) unfair business practices - California Business and Professions Code §§ 17200-17208.

10 3. There are at least 229 hourly individuals directly employed by 1576 Mission in the class with
11 approximately 1,872 pay periods for such employees in the class period (“1576 Employees”).

12 4. On December 14, 2023 and January 18, 2024, Plaintiff Andres Arriaga filed a notice with the
13 LWDA pursuant to Labor Code section 2699.3, stating he intended to serve as a proxy for LWDA to
14 recover civil penalties for various alleged Labor Code violations (“PAGA Notice”).

15 5. On March 15, 2024, Plaintiff filed his first amended complaint in the Lawsuit, which addressed
16 some alleged deficiencies noted by Defendant. This complaint added a cause of action for violation of
17 PAGA (Labor Code § 2698 *et seq.*) and is the operative complaint in the Lawsuit. “Class Period” is
18 defined as the time from December 15, 2019 through the date of preliminary approval by the Court or
19 December 23, 2024, whichever is earliest, and “PAGA Period” is defined as the time from December 14,
20 2022 through the date of preliminary approval by the Court or December 23, 2024, whichever is earlier.

21 6. On September 23, 2024, Plaintiff and Defendant attended a full-day mediation with the highly-
22 respected and experienced wage and hour class action and PAGA mediator Steve Pearl. After a full-day
23 mediation, the parties ultimately reached a long-arm negotiated settlement.

24 7. Throughout the pendency of the Lawsuit, the Parties exchanged documents and information for
25 settlement purposes in connection with the September 23, 2024 mediation. Plaintiff obtained, through
26 limited discovery, a sampling of time and wage data as well as relevant policy documents including,
27 Defendant’s employee handbooks and other written policies, and Plaintiffs’ personnel records; and a
28

1 verified interrogatory response specifying the number of aggrieved employees. Plaintiff's investigation
2 was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996)
3 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130
4 (“*Dunk/Kullar*”).

5 8. The Court has not granted class certification. The Parties agreed to attend an early mediation in this
6 Action in order to avoid the costs and time of protracted litigation.

7 9. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other
8 pending matter or action asserting claims that will be extinguished or affected by the Settlement.

9 **II. FACTUAL AND PROCEDURAL BACKGROUND**

10 **A. The Parties**

11 10. Defendant 1576 Mission is a California Limited Liability Company that owns and operates The
12 Landsby hotel, which included a full service restaurant and bar called Mad & Vin in Solvang, California.
13 Plaintiff worked at Defendant's restaurant as a non-exempt employee working in the kitchen at Mad &
14 Vin.

15 **B. The Class Action Claims**

16 11. Plaintiff's First Amended Complaint in this Action alleges causes of action against Defendant for:
17 (1) failure to pay wages, including minimum wage and overtime; (2) failure to provide rest periods or pay
18 one hour of additional wages in lieu thereof; (3) failure to provide meal periods or pay one hour of
19 additional wages in lieu thereof; (4) failure to pay reporting time wages and other wages; (5) failure to
20 timely pay compensation due and owing in violation of California Labor Code § 203; (6) failure to comply
21 with itemized employee wage statement provisions; (7) unfair business practices - California Business and
22 Professions Code §§ 17200-17208; and (8) violation of Labor Code § 2698 (“PAGA”).

23 **C. The Course of the Litigation, Discovery, Investigation and Settlement**

24 12. On September 23, 2024, Plaintiff and Defendant attended a full-day mediation with the highly-
25 respected and experienced wage and hour class action and PAGA mediator Steve Pearl. After a full-day
26 mediation, the parties ultimately reached a long-arm negotiated settlement. Throughout the pendency of
27 the Lawsuit, the Parties exchanged documents and information for settlement purposes in connection with
28

1 the September 23, 2024 mediation. Plaintiff obtained, through limited discovery, including a sampling of
2 time and wage data as well as relevant policy documents including, Defendant's employee handbooks
3 and other written policies, and Plaintiff's personnel records; and a verified interrogatory response
4 specifying the number of aggrieved employees. Plaintiff's investigation was sufficient to satisfy the
5 criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801
6 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

7 **D. Summary of Settlement Terms**

8 13. The essential terms of the settlement are as follows:

9
10 **1. *Settlement Class***

11 14. For purposes of settlement only, the parties have agreed to certification of a class consisting of all
12 individuals who are or were employed by Defendant as non-exempt employees in California at any time
13 from December 15, 2019 to the earlier of the following two dates: the date of preliminary approval by the
14 Court or December 23, 2024. *See* Exh. 1.

15 **2. *Monetary Terms of Settlement***

16 15. Defendant promises to pay \$600,000.00 and no more as the Gross Settlement Amount and to
17 separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class
18 Payments for its employees. Defendant has no obligation to pay the Gross Settlement Amount (or any
19 payroll taxes) prior to the deadline stated in Paragraph B of the Agreement. The Administrator will
20 disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or
21 Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement
22 Amount will revert to Defendant. *See Exh. 1.*

23 **3. *Allocation and Distribution of Settlement***

24 16. The following amounts will be deducted from the gross settlement amount, resulting in the
25 remaining net settlement amount available to settlement class members (*see id.*):

- 26 a. The actual and direct costs reasonably charged by the settlement administrator
27 (Simpluris), not to exceed 11,843.00, for its services in administering the settlement
28

(see id.);

b. A class representative enhancement award of \$10,000 to Plaintiff (see id.);

c. Plaintiff's attorneys' fee award not to exceed 35% of the gross settlement amount – currently projected to be Two-Hundred Ten Thousand Dollars and Zero Cents (\$210,000.00) – plus reasonable costs, not to exceed Twenty Thousand Dollars (\$20,000.00), actually incurred. (See id.).

17. The net settlement amount to be distributed to settlement class members who do not opt out. Settlement class members are not required to submit a proof of claim form as a condition of receiving a settlement payment. Instead, settlement class members will automatically receive a pro rata share of the net settlement amount unless they affirmatively choose to opt out. For those class members who choose not to exercise their right to opt out, each participating class member's individual settlement payment shall be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. Participating class members have 180 days to cash their checks. See id. Checks that are not cashed within 180 days will be distributed by the Settlement Administrator to the California State Controller's Office Unclaimed Property Fund in the name of the class member. See id.

4. The Opt-Out and Objection Procedures

18. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's full name, address, telephone number, and last four digits of their Social Security number. To be valid, a Request for Exclusion must be timely postmarked by the Response Deadline.

19. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases

1 specified in the Agreement, regardless whether the Participating Class Member actually receives the
2 Class Notice or objects to the Settlement.

3 20. Every Class Member who submits a valid and timely Request for Exclusion is a Non-
4 Participating Class Member and shall not receive an Individual Class Payment or have the right to
5 object to the class action components of the Settlement. Because future PAGA claims are subject to
6 claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved
7 Employees are deemed to release the claims identified in the Agreement and are eligible for an
8 Individual PAGA Payment.

9 21. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after
10 the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class
11 Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any)
12 allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation
13 by communicating with the Administrator via mail. Class Members may enclose documentation
14 showing that the Class Workweeks and/or PAGA Pay Periods are inaccurate. In the absence of any
15 contrary documentation, the Administrator is entitled to presume that the Workweeks contained in
16 the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's
17 determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final
18 and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide
19 copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and
20 Class Counsel and the Administrator's determination the challenges.

21 22. Objections to Settlement. Only Participating Class Members may object to the class
22 action components of the Settlement and/or this Agreement, including contesting the fairness of the
23 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation
24 Expenses Payment and/or Class Representative Service Payment. Participating Class Members may
25 send written objections to the Administrator by mail. In the alternative, Participating Class Members
26 may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final
27 Approval Hearing. A Participating Class Member who elects to send a written objection to the
28 Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice

(plus an additional 14 days for Class Members whose Class Notice was re-mailed). Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

23. ***Limited Scope of Release as to Settlement Class Members' Claims:*** The release of Settlement Class Members' claims is properly limited in scope to the causes of action that were or could have been asserted for violation of the California Labor Code, arising out of, relating to, or in connection therewith as follows:

All Class Members who have not opted out will release and discharge Released Parties from all claims asserted in the Lawsuit, as amended, and/or arising from or related to the facts and claims alleged in the Lawsuit, as amended. The Class Released Claims include all claims for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay; missed/short/late/interrupted meal period, rest period, and/or recovery period wages/premiums; failure to provide meal periods; failure to authorize and permit rest periods and/or recovery periods; the calculation and payment of meal period, rest period, and/or recovery period premiums; payment for all hours worked, including off-the-clock work; wage statements; deductions; failure to reimburse business expenses; failure to pay wages timely during employment; failure to pay all wages due upon separation; unfair business practices; penalties, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs. The Class Members' Released Claims include all claims arising under the California Labor Code (including, but not limited to, sections 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6, 221, 223, 224, 225, 225.5, 226, 226.3, 226.7, 226.8, 256, 510, 511, 512, 516, 550, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 2698 *et seq.*, 2699 *et seq.*, 2800, and 2802); the Wage Orders of the California Industrial Welfare Commission; the California Private Attorneys General Act of 2004 ("PAGA"); California Business and Professions Code section 17200, *et seq.*; the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*; and federal common law. The Parties agree that this Release shall not

1 become effective until after Defendant has paid the Gross Settlement Amount to the Settlement
2 Administrator after entry of the Final Approval Order/Judgment.

3 24. All Class Members who have not opted and thereby release and discharge the Released
4 Parties will be deemed to have acknowledged and agreed that the Released Claims asserted in the
5 Action are disputed and that California Labor Code § 206.5 is not applicable to their Individual
6 Class Payment.

7 25. Release by Aggrieved Employees: All Aggrieved Employees will release and discharge
8 the Released Parties from known and unknown claims for civil penalties under PAGA that were
9 alleged, or could have been alleged, in the Lawsuit, based on the allegations asserted in the Lawsuit,
10 as amended, and/or in the PAGA Notice, including but not limited to, claims relating to failure to
11 pay minimum wages, straight time compensation, overtime compensation, double-time
12 compensation, and interest; the calculation of the regular rate of pay; missed/short/late/interrupted
13 meal period, rest period, and/or recovery period wages/premiums; failure to provide meal periods;
14 failure to authorize and permit rest periods and/or recovery periods; the calculation and payment of
15 meal period, rest period, and/or recovery period premiums; payment for all hours worked, including
16 off-the-clock work; wage statements; deductions; failure to reimburse business expenses; failure to
17 pay wages timely during employment; failure to pay all wages due upon separation; unfair business
18 practices; penalties, including, but not limited to, recordkeeping penalties, wage statement penalties,
19 minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs; and alleged
20 violations of known and unknown claims for civil penalties under PAGA that were alleged, or could
21 have been alleged, in the Lawsuit, based on the allegations asserted in the Lawsuit, as amended,
22 and/or in the PAGA Notice, including but not limited to, claims relating to failure to pay minimum
23 wages, straight time compensation, overtime compensation, double-time compensation, and interest;
24 the calculation of the regular rate of pay; missed/short/late/interrupted meal period, rest period,
25 and/or recovery period wages/premiums; failure to provide meal periods; failure to authorize and
26 permit rest periods and/or recovery periods; the calculation and payment of meal period, rest period,
27 and/or recovery period premiums; payment for all hours worked, including off-the-clock work; wage
28 statements; deductions; failure to reimburse business expenses; failure to pay wages timely during

1 employment; failure to pay all wages due upon separation; unfair business practices; penalties,
2 including, but not limited to, recordkeeping penalties, wage statement penalties, minimum-wage
3 penalties, and waiting-time penalties; and attorneys' fees and costs; and alleged violations of Labor
4 Code sections 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6,
5 221, 223, 224, 225, 225.5, 226, 226.3, 226.7, 226.8, 256, 510, 511, 512, 516, 550, 551, 552, 558,
6 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 2698 *et seq.*, 2699 *et seq.*, 2800,
7 and 2802 ("Released PAGA Claims"). The release period for the Released PAGA Claims shall be
8 the same as the PAGA Period. All Aggrieved Employees, regardless of whether they have opted out
9 of the Class Settlement as described above, and the State of California shall be bound by the PAGA
10 Release and fully release and discharge Defendant and all Released Parties from all Released PAGA
11 Claims upon the final approval of the settlement of PAGA Claims in this Action. The Parties agree
12 there is no statutory right for any Aggrieved Employee to object, opt out or otherwise exclude
13 himself or herself from the Settlement. Unless otherwise provided by law, the Parties further agree
14 there is no right or opportunity for any Aggrieved Employee to appeal the approval of the PAGA
15 settlement by the Court, this settlement shall not be subject to collateral attack by any Aggrieved
16 Employee, and such prohibited collateral attack shall include, but not be limited to, claims that the
17 Aggrieved Employee failed, for any reason, to timely receive his or her individual Settlement
18 Payment.

19 26. The scope of the release as to the putative class members is consistent with case law
20 concerning the appropriate scope of releases in class actions. *See, e.g., Williams v. Boeing Co.*, 517
21 F.3d 1120, 1134 (9th Cir. 2008) (class action release is only "*enforceable* as to subsequent claims
22 relying upon a legal theory different from that relied upon in the class action complaint, but
23 depending upon the same set of facts") (internal quotations omitted); *Gallucci v. Boiron, Inc.*, 2012
24 WL 5359485 * 11 (S.D. Cal. 2012) ("A majority of circuits, including the Ninth Circuit, uphold the
25 release of claims that are based on the same factual predicate as the claims asserted in the
26 complaint."); Alba Conte & Herbert Newberg, *Newberg on Class Actions*, § 12.15 (4th ed. 2002) at
27 312 ("The scope of a judgment must be limited to the claims that were asserted or that may arise out
28 of the transactions or events pleaded in the complaint . . ."). Accordingly, the scope of the release

as to settlement class members' claims is appropriate.

6. Class Notice and Final Judgment

27. The class notice, attached as Exhibit A to the Settlement Agreement, will be mailed to class members in both English and Spanish, after the administrator searches NCOA. *See* Exh. 1A. The Court's final judgment will be posted on the settlement administrator's website. *See id.*

7. Anticipated Schedule

28. The following schedule sets forth a proposed sequence for the relevant dates and deadlines, assuming this Court grants preliminary approval of the parties' proposed settlement:

Within fifteen (15) days following preliminary approval	Defendant will provide the settlement administrator with the names, most current mailing addresses, and the number of weeks worked as a class member during the class period. Exhibit 1.
Within fourteen (14) of receipt of the information from Defendant	The settlement administrator will mail the class notice approved by the Court in both English and Spanish to all persons who are shown by the records provided by Defendant to be Class and PAGA Settlement Members. (<i>See id.</i>)
Sixty (60) days after the settlement administrator's mailing of the notice	Deadline for Class Members to opt out or object to the Class Settlement or request to be excluded from the Class Settlement. (<i>See id.</i>)
Date to be set by this Court	Proposed Final Approval Hearing

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**PRELIMINARY AND CONDITIONAL APPROVAL OF THE CLASS SETTLEMENT IS
APPROPRIATE**

29. The law favors the settlement of lawsuits, particularly in class actions and other complex cases where substantial resources can be conserved by avoiding the time, expense and rigors of protracted litigation. *Neary v. Regents of Univ. of Cal.*, 3 Cal. 4th 273, 277-281 (1992); *Lealao v. Beneficial Cal. Inc.*, 82 Cal. App. 4th 19, 53 (2000). The purpose of the preliminary evaluation of a proposed class action settlement is to determine only whether the settlement is within the range of possible approval, and thus whether notice to the class of the terms and conditions, and the scheduling of a formal fairness hearing, are warranted. *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224, 234-35 (2001).

30. To make the fairness determination, the Court should consider several factors, including “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, [and] the experience and views of counsel.” *Dunk v. Ford Motor Co.*, 48 Cal. App. 4th 1794, 1801 (1996).

31. At the same time, in determining the fairness of a proposed settlement, the trial court should give due regard to what is otherwise a private, consensual agreement between the parties. *See In re Sutter Health Uninsured Pricing Cases*, 171 Cal. App. 4th 495, 505 (2009); *Dunk*, 48 Cal. App. 4th at 1800-1801. There is an initial presumption of fairness when, as is the case here, (1) the proposed class settlement is negotiated and reached through arms-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; and (3) class counsel is experienced in similar litigation. *See Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 52-53 (2008); *Dunk*, 48 Cal. App. 4th at 1801.

The Proposed Settlement is the Product of Non-Collusive, Arms-Length, Informed Negotiations

32. As described above, the settlement reached in this case was the result of arms-length settlement negotiations facilitated by a neutral mediator after litigation and discovery. The parties were only able to reach this settlement after engaging in a full-day mediation, and after additional subsequent

1 negotiations. *See id.* Based on their review of the evidence and evaluation of the risks of litigation,
2 Plaintiff's counsel believes that the class settlement is an adequate, fair and reasonable compromise of
3 this action.

4 **A. The Investigation and Discovery Were Sufficient to Allow Counsel and the Court to**
5 **Act Intelligently**

6 33. Plaintiff's counsel undertook an extensive investigation to evaluate the merits of the claims at
7 issue in this lawsuit and their amenability to class treatment. Plaintiff has reviewed Defendant's
8 employment policies during the class period. Plaintiff also analyzed the data and compiled an Excel
9 spreadsheet to assist in the damages analysis. Accordingly, by the time the class settlement was
10 ultimately reached, Plaintiff's counsel had a wealth of information upon which to make an informed
11 decision about the appropriate value upon which to settle this case.

12 34. Accordingly, by the time the class settlement was ultimately reached, Plaintiff's counsel had a
13 wealth of information upon which to make an informed decision about the appropriate value upon
14 which to settle this case. Moreover, Defendant supplied additional profit and loss documentation to the
15 mediator for review in order to assess the Defendant's financial status; and the mediator conveyed the
16 documents reflected significant recent losses.

17 **Meal and Rest Periods**

18 35. Plaintiffs allege Class Members were frequently too busy to take their breaks, and
19 supervisors routinely required that Class Members finish their tasks before being permitted to take
20 breaks, resulting in late or missed meal and rest periods.

21 36. Defendant produced timekeeping and payroll records for 229 employees (the "Sample
22 Data").

23 37. Based on the data provided by Defendant, Plaintiff extrapolated the sample to the
24 total exposure for the wage claim, resulting in approximately: 50% violation rate for meal
25 breaks; and about 50% assuming an equal violation rate for rest breaks. So, total meal and rest
26 break premiums estimated for the class were approximately **\$600,000** for meal period violations
27 and approximately **\$600,000** for rest break violations. Class Counsel thought Plaintiff had about a
28 75% probability of prevailing at trial on the meal and rest break claims, given the evidence

1 timesheets, but also considering the difficulty of proving the inaccuracy and commonality. **As**
2 **such, Plaintiff felt that the real exposure for this claim was approximately \$900,000**
3 **based on the general risks of trial.**

4 **Failure to Provide Accurate Itemized Wage Statements**

5 38. Pursuant to Labor Code §226(e), an employee is entitled to a \$50 penalty for the
6 initial pay period and \$100 penalty for each subsequent violation of a subsequent pay period
7 based on this derivative claim. Based on the data provided by Defendant, Plaintiff estimated the
8 total exposure for the wage statement claim is approximately **\$700,000.**

9 39. Plaintiff thought he had a decent chance (approximately 75%) of prevailing on the
10 liability/damages of these claims, though Plaintiff would have to prove that it was a "willful
11 violation" and also that there was an injury. Plaintiff felt that a trier of fact would find this was a
12 willful violation; but there were significant inconsistencies with the violations and certain
13 groups of employees did not experience violations at near the rate as others. **As such, Plaintiff**
14 **felt that the exposure for this claim was approximately \$525,000 based on these risks.**

15 **Failure to Pay Wages Upon Termination**

16 40. Plaintiff's 203 claim is derivative of the wage, meal and rest periods and other
17 claims above. Pursuant to Labor Code §203, an employee is entitled to 30 day's wages at 8
18 hours a day at the regular straight time hourly rate. Based on the data provided by Defendant,
19 Plaintiff's estimate of the total exposure for the waiting time claim is approximately **\$450,000.**

20 41. Based upon the dispute of the facts on the key underlying claims, Class Counsel
21 thought they had about a 75% chance of prevailing on liability based on the evidence of
22 timesheets; but counsel had to give due consideration of commonality. **As such, Plaintiff felt**
23 **that the best estimate of the exposure for this claim was approximately \$340,000 based on**
24 **these risks.**

25 **PAGA Penalty**

26 42. Pursuant to Labor Code §2699, et seq., an employee is entitled to a \$100 penalty for the
27 initial pay period and a \$200 penalty for each subsequent violation of the Labor code. Plaintiff felt
28 that it would be difficult to obtain Labor Code § 203 and 226 penalties and on top of that recover

1 PAGA penalties for the alleged wage violations. PAGA penalties awarded are also within the court's
2 discretion. **As such, Plaintiff felt the best estimate of the real exposure for this PAGA claim was**
3 **minimal at best and added no value to the settlement.**

4 43. **Based on the above analysis, the total realistic exposure of this case was**
5 **approximately \$1,200,000 in damages, approximately \$1,250,000 in penalties (not accounting**
6 **for PAGA), which includes approximately \$350,000 in interest, totaling potentially**
7 **approximately \$2,500,000 (assuming Plaintiff could prove all elements, including willfulness).**
8 **Plaintiff obtained a settlement of \$600,000. This is approximately 24% of the class exposure.**

9 This is fair and reasonable in this case based on the fact that this case was full of trial risks, the lack
10 of evidence regarding meal/rest break issues in the case, and Defendant is a relatively small
11 company which would go out of business and cease operations if a significant judgment was entered
12 in this case. Furthermore, there is also no claim form requirement, no reversion to Defendant and
13 Defendant will pay its share of payroll taxes in addition to this settlement.

14 44. Class counsel considers this to be a fair settlement for the Class Members, taking
15 into account all issues and risks related to liability and damages, trial and appeal and also
16 considering the case law regarding fair, reasonable, and adequate settlements.

17 **Class Counsel's Qualifications and Costs**

18 45. I have practiced civil litigation for over 13 years. During that time, I have devoted
19 about 80% of my practice to labor and employment law (including wage & hour cases) and class
20 actions. I have litigated hundreds of employment cases, and I have litigated the following class
21 actions: *Abbas v. A-I Security and Screens, Inc.*; *Reuben Serna v. Milt Guggia Enterprises*; *Antonio*
22 *Soto, et al. v. Hooman Automotive, et al.*; *Paige Barnes v. Asenda Health*; *Daigoro Gutierrez, et al.*
23 *v. InTouch Mobile, et al.*; *Jason Hitt v. Cardinal Health 100, Inc.*; *Afsaneh Emrani v. 99 Cent Only*
24 *Stores, Inc., et al.*; *Alejandro Ruiz, et al. v. The Electric Connection, Inc.*; *Yaniv Grinberg, et al. v.*
25 *Maria's Italian Kitchen*; *Marcela Gomez v. Producers Meat & Provisions, Inc.*; *Christine Garcia v.*
26 *Champion Discs, Inc.*; *Killinger v. UPS, Inc.*; *Concepcion Ramirez v. Pyramid Flowers, Inc.*

27 46. I continue to actively seek to develop my knowledge of California wage and hour law
28 and have taken many Continuing Legal Education classes related to wage and hour law and class

1 actions. I have been an active member of the Consumer Attorneys Association of Los Angeles and
2 Association of Trial Lawyers of America, and regularly consult with their members regarding
3 cutting edge developments in California wage and hour law.

4 **The Terms of the Proposed Settlement are Fair and Reasonable in Light of the Risks**
5 **Associated with Contested Liability**

6 47. Based upon my review of the evidence and investigation and legal research regarding
7 the merits and damages for each claim, I estimate that, if totally successful on all claims, the
8 potential recovery that could be obtained on behalf of the class could have been upwards of
9 \$2,500,000. Given the assessment and analysis of Defendant's articulated defenses, the size and
10 willfulness of Defendant, the risk Plaintiff would be unable to certify a class, and the risk of
11 complete defenses on the merits of the claims, I have determined that the \$600,000 settlement
12 amount ultimately agreed upon by the parties is fair and reasonable. Indeed, regardless of evidence
13 of Defendant's liability for claims and putative class members, the risk of not being able to prove
14 Plaintiff's claims and the size of Defendant's operations convinced me that the settlement amount is
15 fair and reasonable.

16 **The Proposed Enhancement Award to Plaintiff is Reasonable and Routinely Awarded**
17 **by Courts**

18 48. Plaintiff, as the class representative, seeks an enhancement award of Ten Thousand
19 Dollars and Zero Cents (\$10,000.00). Defendant does not oppose this request and I am of the
20 opinion that the enhancement award is reasonable, proper, and supported by the particular
21 circumstances of this case and the applicable case law. A declaration from Plaintiff will be
22 submitted in support of final approval.

23 49. Here, Plaintiff was instrumental in assisting counsel in prosecuting this case and it is
24 estimated that he volunteered in excess of 25 hours working on this matter. This included at least
25 two in-person meetings with counsel, gathering evidence to support the claims and providing them
26 to counsel, conferring with other Class Members, assembling and providing counsel with relevant
27 documents to support the claims, conferring with counsel about the defenses asserted by Defendant,
28 making himself available at the mediation, and reviewing and consulting with counsel about the

1 terms of the settlement agreement ultimately reached. Moreover, Plaintiff assumed a real financial
2 risk by placing his name on this lawsuit. He volunteered to serve as a named plaintiff at a time when
3 he was actively applying for new jobs. He had to list Defendant as a former employer on job
4 applications and, as such, had to accept the likelihood that prospective employers would learn that he
5 had sued a former employer when contacting Defendant for a reference or conducting a background
6 check, which could make finding new employment much more difficult. Finally, the risks taken and
7 efforts exerted by Plaintiff resulted in a real benefit for members of this class.

8 50. As a result of Plaintiff filing this lawsuit, Class Members who do not opt-out will share
9 in the net settlement amount of approximately \$360,000 that they would not have otherwise
10 received. This means that the average Class Member will receive a settlement payment of
11 approximately \$1,500. This amount shall be definitively calculated by the Settlement Administrator
12 once this Court enters an order preliminarily approving this settlement.

13 **PAGA Penalties**

14 51. The Parties have agreed to allocate \$40,000.00 to PAGA penalties, with \$30,000.00
15 going to the LWDA and the remaining \$10,000.00 to be distributed to the PAGA Settlement
16 Members. The Parties will notify the LWDA of this settlement and all orders in this case.

17 **The Requested Attorneys' Fees and Costs are Reasonable and Customarily Approved**
18 **by Courts.**

19 52. I believe attorneys' fees of \$210,000.00 are fair and reasonable in view of the typical
20 common fund attorneys' fees awards and similar California class action wage and hour settlements
21 and the hours worked on this case. Likewise, I and my co-counsel have approximately \$20,000.00 in
22 litigation costs. I will file a detailed statement of time worked and costs at the time of Final
23 Approval.

24 **PROVISIONAL CLASS CERTIFICATION IS APPROPRIATE**

25 **A. The Proposed Settlement Class is Ascertainable and Sufficiently Numerous**

26 53. The Class at issue here – consisting of non-exempt hourly employees – is readily
27 ascertainable from Defendant's own records. The class is also sufficiently numerous, as there are
28 approximately 229 putative class members. Joinder of 229 individuals would be impracticable.

1 **B. The Community of Interest Requirements for Class Treatment are Met**

2 54. In this case, each claim challenges common policies that Plaintiff contends violate
3 California's wage and hour laws.

4 55. Plaintiff's claims are typical of those of the class. Plaintiff was subject to the same
5 policies that are challenged in this lawsuit.

6 56. Plaintiff is an adequate class representative. There is no indication that there are, or ever
7 will be, any conflicts between Plaintiff or counsel and the class members

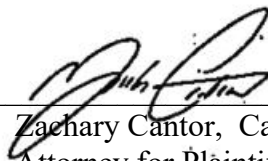
8 **Class-Wide Settlement is Superior to Other Available Methods of Resolution**

9 57. The alternative method of resolution would be a multitude of individual lawsuits
10 challenging the same alleged wage and hour policies and practices of Defendant, each seeking a
11 small amount of damages. Such duplicative litigation would be extremely inefficient and costly for
12 the courts. In light of these concerns, a class action is the superior method of resolving these wage
13 and hour claims.

14 58. Attached hereto as Exhibit 1 is a true and correct copy of the Class Action and PAGA
15 Stipulation and Release (with the proposed Class Notice attached thereto as Exhibit A).

16
17
18 Dated: December 14, 2024

By: _____



Zachary Cantor, Cantor Law
Attorney for Plaintiff

EXHIBIT “1”

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff ANDRES ARRIAGA (“Plaintiff”) and defendant SIMA CORPORATION, a California corporation, and defendant 1576 MISSION DRIVE, LLC, a California limited liability company, and defendant SIMA MANAGEMENT CORPORATION, a California corporation, and defendant KEVIN J. BURNES, an individual, and defendant JAMES P. KNELL, an individual (all defendants, together, “SIMA”). The Agreement refers to Plaintiff and SIMA collectively as “Parties,” or individually as “Party.”

1 DEFINITIONS.

- 1.1 “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against SIMA captioned *Andres Arriaga v. 1576 Mission Drive, LLC, et al.*, initiated on December 15, 2023, and pending in the Superior Court of the State of California, County of Santa Barbara, case number 23CV05580.
- 1.2 “Administrator” means Simpluris (www.simpluris.com), a California corporation, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3 “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4 “Aggrieved Employee” means a person who worked as a non-exempt employee of defendant 1576 MISSION DRIVE, LLC, in California at any time during the PAGA Period.
- 1.5 “Class” means all persons who worked as non-exempt employees of defendant 1576 MISSION DRIVE, LLC, in California at any time during the Class Period.
- 1.6 “Class Counsel” means attorney Joshua C. Braddock of Arendsen Braddock LLP and attorney Zachary M. Cantor of Cantor Law.
- 1.7 “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8 “Class Data” means Class Member identifying information in SIMA’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9 “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

- 1.10 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11 “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12 “Class Period” means the period from December 15, 2019, to the earlier of the following two dates: the date of entry of Preliminary Approval, or December 23, 2024.
- 1.13 “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.14 “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.
- 1.15 “Court” means the Superior Court of California, County of Santa Barbara.
- 1.16 “SIMA” means each and any of the following entities or persons: defendant SIMA CORPORATION, and defendant 1576 MISSION DRIVE, LLC, and defendant SIMA MANAGEMENT CORPORATION, and defendant KEVIN J. BURNES, and defendant JAMES P. KNELL.
- 1.17 “Defense Counsel” means each of the following: attorneys Renee N. Noy and George P. Albutt of Workwise Law, PC, and attorney Robert A. Curtis of Foley Bezek Behle & Curtis, LLP.
- 1.18 “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, then 30 days after the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement but do not file a timely appeal, then 30 days after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, then 7 days after the deadline runs for petition to the California Supreme Court has run on the appellate court affirmation of the Judgment and remittitur.
- 1.19 “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21 “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

- 1.22 “Gross Settlement Amount” means six hundred thousand dollars (\$600,000.00) which is the total amount SIMA agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expense Payment.
- 1.23 “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25 “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subdivision (i).
- 1.27 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).
- 1.28 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29 “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30 “PAGA Pay Period” means any pay period during which an Aggrieved Employee worked for 1576 MISSION DRIVE, LLC, for at least one day during the PAGA Period.
- 1.31 “PAGA Period” means the period from December 14, 2022, to the earlier of the following two dates: the date of entry of Preliminary Approval, or December 23, 2024.
- 1.32 “PAGA” means the Private Attorneys General Act (Lab. Code, § 2698 et seq.).
- 1.33 “PAGA Notice” means Plaintiff’s December 14, 2023, letter to SIMA and the LWDA and Plaintiff’s January 17, 2024, letter to SIMA and the LWDA providing notice pursuant to Labor Code section 2699.3, subdivision (a).
- 1.34 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$10,000) and 75% to LWDA (\$30,000), in settlement of PAGA claims.

- 1.35 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36 “Plaintiff” means Andres Arriaga, the named plaintiff in the Action.
- 1.37 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.40 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.41 “Released Parties” means all of the following: (a) defendant SIMA CORPORATION, and defendant 1576 MISSION DRIVE, LLC, and defendant SIMA MANAGEMENT CORPORATION, and defendant KEVIN J. BURNES, and defendant JAMES P. KNELL, and (b) each of the foregoing entities’ former and current parent companies, subsidiaries, and affiliates, and (c) for each person or entity listed in part (a) or part (b), each of each such person’s or entity’s accountants, agents, assigns, attorneys, auditors, consultants, directors, employees, heirs, insurers, investment bankers, managers, members, officers, partners, predecessors, principals, reinsurers, representatives, shareholders, successors, and trustees.
- 1.42 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43 “Response Deadline” means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email or mail Requests for Exclusion from the Settlement, or (b) fax, email or mail his, her, or their Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.44 “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.45 “Workweek” means any week during which a Class Member worked for 1576 MISSION DRIVE, LLC, for at least one day, during the Class Period.

2 RECITALS.

- 2.1 On December 14, 2023, Plaintiff commenced this Action by filing a Complaint against defendant SIMA CORPORATION, a California corporation; defendant KEVIN J. BURNS, an individual; and defendant JAMES P. KNELL, an individual, alleging

causes of action for: 1. Failure to Pay Wages, Including Minimum Wage and Overtime; 2. Failure to Provide Rest Periods; 3. Failure to Provide Meal Periods; 4. Failure to Pay Reporting Time And Other Wages; 5. Failure to Timely Pay Compensation Due And Owing; 6. Failure to Provide Accurate Itemized Wage Statements; and 7. Unfair Business Practices. On March 15, 2024, Plaintiff filed a First Amended Complaint alleging causes of action against defendant 1576 MISSION DRIVE, LLC, and defendant SIMA MANAGEMENT CORPORATION, and defendant KEVIN J. BURNES, and defendant JAMES P. KNELL for: 1. Failure to Pay Wages, Including Minimum Wage and Overtime; 2. Failure to Provide Rest Periods; 3. Failure to Provide Meal Periods; 4. Failure to Pay Reporting Time And Other Wages; 5. Failure to Timely Pay Compensation Due And Owing; 6. Failure to Provide Accurate Itemized Wage Statements; 7. Unfair Business Practices; and 8. Penalties Pursuant to Labor Code § 2699 (Private Attorney General Act). On April 5, 2024, Plaintiff filed a Second Amended Complaint alleging causes of action against defendant 1576 MISSION DRIVE, LLC, and defendant SIMA MANAGEMENT CORPORATION, and defendant KEVIN J. BURNES, and defendant JAMES P. KNELL for: 1. Failure to Pay Wages, Including Minimum Wage and Overtime; 2. Failure to Provide Rest Periods; 3. Failure to Provide Meal Periods; 4. Failure to Pay Reporting Time And Other Wages; 5. Failure to Timely Pay Compensation Due And Owing; 6. Failure to Provide Accurate Itemized Wage Statements; 7. Unfair Business Practices; and 8. Penalties Pursuant to Labor Code § 2699 (Private Attorney General Act). The Second Amended Complaint is the operative complaint in the Action (the “Operative Complaint”).] SIMA denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.

- 2.2 Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiff gave timely written notice to SIMA and the LWDA by sending the PAGA Notice.
- 2.3 On September 24, 2024, the Parties participated in an all-day mediation presided over by Steven Pearl which led to this Agreement to settle the Action.
- 2.4 Prior to mediation, Plaintiff obtained, through formal discovery, the number of Class Members, and copies of the following categories of documents: job descriptions for jobs performed by the Class Members; wage and time records for Plaintiff; paystubs and work schedules for Plaintiff; and a random sampling of the pay records and time records for Class Members, consisting of such records for 25% of the Class Members for two consecutive two-week pay periods from each of the following time periods: February 2020, May 2020, August 2020, November 2020, February 2021, May 2021, August 2021, November 2021, February 2022, May 2022, August 2022, November 2022, February 2023, May 2023, August 2023, and November 2023. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.5 The Court has not set a deadline for Plaintiff to file a motion for class certification. Plaintiff has not filed such a motion. The Court has not granted class certification.

- 2.6 The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3 MONETARY TERMS.

- 3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, SIMA promises to pay six hundred thousand dollars (\$600,000.00) and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. SIMA has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to SIMA.
- 3.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
- 3.2.1 To Plaintiff: Class Representative Service Payment to the Class Representative of not more than ten thousand dollars (\$10,000.00) (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). SIMA will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.
- 3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than 35% of the Gross Settlement Amount, which is currently estimated to be two hundred thousand dollars (\$210,000.00), and a Class Counsel Litigation Expenses Payment of not more than twenty thousand dollars (\$20,000.00). SIMA will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The

Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds SIMA harmless, and indemnifies SIMA, from any dispute or controversy regarding any division or sharing of any of these Payments.

- 3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed _____ [to be based on proposal from Simpluris] _____) except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than _____ [to be based on proposal from Simpluris] _____, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.4 To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
- 3.2.4.1 Tax Allocation of Individual Class Payments. 25% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 75% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and statutory penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
- 3.2.4.2 Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.
- 3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of sixty thousand dollars (\$40,000) to be paid from the Gross Settlement Amount, with 75%, i.e., forty thirty thousand dollars (\$30,000) allocated to the LWDA PAGA Payment and 25%, i.e., ten thousand dollars (\$10,000) allocated to the Individual PAGA Payments.
- 3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$10,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b)

multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

- 3.2.5.2 If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4 SETTLEMENT FUNDING AND PAYMENTS.

- 4.1 Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, SIMA estimates that as of the date of the mediation (September 23, 2024), there are approximately 257 Class Members who collectively worked a total of approximately 14,032 Workweeks, and approximately 141 Aggrieved Employees who worked a total of approximately 5,886 PAGA Pay Periods.
- 4.2 Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, SIMA will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. SIMA has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which SIMA must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3 Funding of Gross Settlement Amount. SIMA shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay SIMA's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.
- 4.4 Payments from the Gross Settlement Amount. Within 14 days after SIMA funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
- 4.4.1 The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the

date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

- 4.4.2 The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without United States Postal Service ("USPS") forwarding address. Within [7] days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.4.3 For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of Code of Civil Procedure section 384, subdivision (b).
- 4.4.4 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate SIMA to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5 RELEASES OF CLAIMS. Effective on the date when SIMA fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

- 5.1 Plaintiff's Release. Plaintiff and his, her, or their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors and assigns generally, release and discharge Released Parties from all claims, transactions or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's

PAGA Notice, or ascertained during the Action and released under 5.2, below. (“Plaintiff’s Release.”) Plaintiff’s Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff’s Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff’s discovery of them. This release excludes all claims related to the case entitled Andres Arriaga v. SIMA Corporation dba The Landsby (case # 23CV05577) pending in Santa Barbara Superior Court.

5.1.1 Plaintiff’s Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiff’s Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the Civil Code, which reads:

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.

5.2 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 (a) all claims for violations of California Labor Code sections 201-203, 204, 206, 206.5, 216, 218.5, 218.6, 221, 225.5, 226, 226.3, 226.6, 226.7, 229, 233, 234, 256, 350, 351, 353, 356, 432, 450, 510, 511, 512, 515, 558, 558.1, 1174, 1174.5, 1175, 1182.11, 1182.12, 1185, 1194, 1194.2, 1195, 1197, 1197.1, 1197.5, 1198.5, 1199, 2751 and 2802), violations of the applicable Wage Orders issued by the California Industrial Welfare Commission as Wage Order 5-2001, including, but not limited to, Sections 3, 4, 5, 7, 8, 9(A), 11, 12, 13 and 20, violations of the unlawful business practice provisions of California Business and Professions Code § 17000, et seq., and violations of related common law, and from (b) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and/or ascertained in the course of the Action, including, without limitation, any and all claims for: 1. failure to pay wages, including minimum wage and overtime; 2. failure to provide rest periods; 3. failure to provide meal periods; 4. failure to pay reporting time and other wages; 5. failure to timely pay compensation due and owing; 6. failure to provide accurate itemized wage statements; 7. unfair business practices; and 8. penalties pursuant to Labor Code § 2699. 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.

- 5.3 Release by Participating and Non-Participating Class Members Who Are Aggrieved Employees: 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 (a) all claims for PAGA penalties based on any violations of California Labor Code sections 201-203, 204, 206, 206.5, 216, 218.5, 218.6, 221, 225.5, 226, 226.3, 226.6, 226.7, 229, 233, 234, 256, 350, 351, 353, 356, 432, 450, 510, 511, 512, 515, 558, 558.1, 1174, 1174.5, 1175, 1182.11, 1182.12, 1185, 1194, 1194.2, 1195, 1197, 1197.1, 1197.5, 1198.5, 1199, 2751 and 2802), violations of the applicable Wage Orders issued by the California Industrial Welfare Commission as Wage Order 5-2001, including, but not limited to, Sections 3, 4, 5, 7, 8, 9(A), 11, 12, 13 and 20, violations of the unlawful business practice provisions of California Business and Professions Code § 17000, et seq., and violations of related common law, and from (b) 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, and/or in the PAGA Notice and/or ascertained in the course of the Action. including, without limitation, PAGA penalties for: 1. failure to pay wages, including minimum wage and overtime; 2. failure to provide rest periods; 3. failure to provide meal periods; 4. failure to pay reporting time and other wages; 5. failure to timely pay compensation due and owing; 6. failure to provide accurate itemized wage statements; and 7. unfair business practices.

6 MOTION FOR PRELIMINARY APPROVAL. Class Counsel will prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

- 6.1 SIMA's Declaration in Support of Preliminary Approval. Within 30 days of the full execution of this Agreement, SIMA will prepare and deliver to Class Counsel a signed Declaration from SIMA supporting Preliminary Approval. In their Declarations, Defense Counsel and SIMA shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code section 2699, subdivision (f)(2); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff,

Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members and/or the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Lab. Code, § 2699.3, subd. (a))), Operative Complaint (Lab. Code, § 2699, subd. (1)(1)), this Agreement (Lab. Code, § 2699, subd. (1)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, and the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 6.3 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 60 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns to the extent possible so long as that does not change the Gross Settlement Amount.

7 SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected Simpluris to serve as the Administrator and verified that, as a condition of appointment, Simpluris agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4 Notice to Class Members.

- 7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks and Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class USPS mail, the Class Notice, with Spanish translation, if applicable, substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3 Not later than 3 business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or PAGA Pay Periods and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5 If the Administrator, SIMA or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5 Requests for Exclusion (Opt-Outs).

- 7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her/their representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- 7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.
- 7.6 Challenges to Calculation of Workweeks. Each Class Member shall have [60] days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or PAGA Pay Periods shall be final and not appealable or otherwise

susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 Objections to Settlement.

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present oral objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than [60] days after the Administrator's mailing of the Class Notice (plus an additional [14] days for Class Members whose Class Notice was re-mailed).

7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

7.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

- 7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.8.4 Workweek and/or PAGA Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or PAGA Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 Administrator’s Declaration. Not later than 14 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator’s declaration in Court.
- 8 **CLASS SIZE ESTIMATES.** Based on its records, SIMA estimates that, as of the date of the mediation (September 23, 2024), (1) there are approximately 257 Class Members and approximately 14,032 total Workweeks during the Class period and (2) there were approximately 141 Aggrieved Employees who worked approximately 5,886 pay periods during the PAGA Period.
- 9 **SIMA’S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, SIMA may, but is not

obligated, elect to withdraw from the Settlement. The Parties agree that, if SIMA withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, SIMA will remain responsible for paying all Settlement Administration Expenses incurred to that point. SIMA must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

- 10 **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subdivision (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
 - 10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
 - 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final Approval except for any change to the Gross Settlement Amount. The Court’s decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, and/or Class Counsel Litigation Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
 - 10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters and (iii) addressing such post-Judgment matters as are permitted by law.
 - 10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment set forth in this Settlement, the Parties, their respective counsel and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties’ obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and

the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10.5 Appellate Court Orders to Vacate, Reverse or Materially Modify Judgment. If the reviewing Court vacates, reverses or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11 **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12 **ADDITIONAL PROVISIONS.**

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by SIMA that any of the allegations in the Operative Complaint have merit or that SIMA has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that SIMA's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, SIMA reserves the right to contest certification of any class for any reasons, and SIMA reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest SIMA's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, SIMA and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency or other entity except: (1) to the Parties' attorneys, accountants, members or spouses, all of whom will be instructed to keep this Agreement confidential;; (2) to the extent necessary to report income to appropriate taxing authorities; (3) in response to a court order or subpoena; or (4) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency

order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, SIMA and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

- 12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.
- 12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants or inducements made to or by any Party.
- 12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and SIMA, respectively, 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 reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action or right released and discharged by the Party in this Settlement.
- 12.8 No Tax Advice. Neither Plaintiff, Class Counsel, SIMA nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

- 12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed or waived only by an express written instrument signed by all Parties or their representatives and approved by the Court.
- 12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.
- 12.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13 Confidentiality. To the extent permitted by law, all agreements made and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence Code section 1152, and all copies and summaries of the Class Data provided to Class Counsel by SIMA in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute or California Rules of Court rule. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Class Data received from SIMA unless, prior to the Court's discharge of the Administrator's obligation, SIMA makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.
- 12.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 12.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 12.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

TO PLAINTIFF:

**JOSHUA C. BRADDOCK
ARENDSSEN BRADDOCK LLP
535 NORTH HIGHWAY 101, SUITE A
SOLANA BEACH, CA 92075;**

AND

**ZACHARY M. CANTOR
CANTOR LAW
211 EAST CARRILLO STREET, SUITE 301
SANTA BARBARA, CA 93101**

TO SIMA:

**ROBERT A. CURTIS
FOLEY BEZEK BEHLE & CURTIS, LLP
15 W CARRILLO ST
SANTA BARBARA, CA 93101**

AND

**RENEE N. NOY
WORKWISE LAW, PC
23945 CALABASAS ROAD, SUITE 200
CALABASAS, CA 91302**

- 12.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), 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 if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

11/14/2024

Date

Firmado por:



Andres Arriaga

SIMA CORPORATION

Date

By:

James P. Knell, Chairman

Date

1576 MISSION DRIVE, LLC

By: _____
James P. Knell, Manager

Date

SIMA MANAGEMENT CORPORATION

By: _____
Kevin J. Burnes, President

Date

Kevin J. Burnes

Date

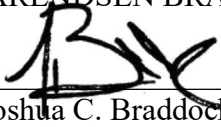
James P. Knell

Agreement as to form only:

11/14/2024

Date

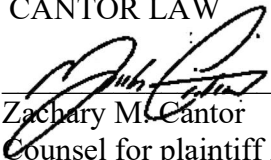
ARENDSSEN BRADDOCK LLP

By:  _____
Joshua C. Braddock
Counsel for plaintiff Andres Arriaga

11/14/2024

Date

CANTOR LAW

By:  _____
Zachary M. Cantor
Counsel for plaintiff Andres Arriaga

Date

WORKWISE LAW, PC

By: _____
Renee Noy and George Albutt
Counsel for defendants Sima Corporation, 1576
Mission Drive, LLC, SIMA Management Corporation,
Kevin J. Burns, and James P. Knell

Date

FOLEY BEZEK BEHLE & CURTIS, LLP

By:

Robert A. Curtis
Counsel for defendants Sima Corporation, 1576
Mission Drive, LLC, SIMA Management Corporation,
Kevin J. Burns, and James P. Knell

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

Andres Arriaga v. 1576 Mission Drive, LLC, et al.
Santa Barbara County Superior Court Case No. 23CV05580

**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.**

You may be eligible to receive money from an employee class action lawsuit (“Action”) against SIMA CORPORATION, a California corporation, and 1576 MISSION DRIVE, LLC, a California limited liability company, and SIMA MANAGEMENT CORPORATION, a California corporation, and KEVIN J. BURNES, an individual, and defendant JAMES P. KNELL, an individual (together, “SIMA”) for alleged wage and hour violations. The Action was filed by a former SIMA employee, ANDRES ARRIAGA (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class of hourly employees (“Class Members”) who worked for 1576 MISSION DRIVE, LLC, during the Class Period (December 15, 2019, to the earlier of the following two dates: the date of entry of Preliminary Approval, or December 23, 2024) and (2) penalties under the California Private Attorney General Act (“PAGA”) for all hourly employees who worked for SIMA during the PAGA Period (December 14, 2022, to the earlier of the following two dates: the date of entry of Preliminary Approval, or December 23, 2024) (“Aggrieved Employees”).

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

Based on SIMA’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]**. 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 SIMA’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 SIMA’s records showing that **you worked [REDACTED] workweeks** during the Class Period and **you worked [REDACTED] 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 SIMA to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against SIMA.

If you worked for SIMA 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 SIMA.
- (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 SIMA, 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.

SIMA 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 SIMA 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 [REDACTED]	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. SIMA 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 	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 Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on . 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 	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 Pay Periods you worked according to SIMA’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by . See Section 4 of this Notice.

WHAT IS THE ACTION ABOUT?

Plaintiff is a former SIMA employee. The Action accuses SIMA of violating California labor laws by: failure to pay wages, including minimum wage and overtime; failure to provide rest periods; failure to provide meal periods; failure to pay reporting time and other wages; failure to timely pay compensation due and owing; failure to provide accurate itemized wage statements; and unfair business practices. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Lab. Code, § 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: attorney Joshua C. Braddock of Arendsen Braddock LLP and attorney Zachary M. Cantor of Cantor Law. (“Class Counsel.”)

SIMA strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether SIMA or Plaintiff is correct on the merits. In the meantime, Plaintiff and SIMA hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an 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 SIMA 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, SIMA 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) SIMA has agreed to pay a fair, reasonable and adequate amount considering the strength 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. SIMA Will Pay \$600,000 as the Gross Settlement Amount (Gross Settlement). SIMA 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 attorneys’ 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, SIMA will fund the Gross Settlement not more than 14 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 \$210,000 [35% of the Gross Settlement] to Class Counsel for attorneys’ fees and up to \$20,000 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 \$_____ to the Administrator for services administering the Settlement.
 - D. Up to \$40,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA 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 SIMA are asking the Court to approve an allocation of 25% of each Individual Class Payment to taxable wages (“Wage Portion”) and 75% to interest and statutory penalties (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. (SIMA will separately pay employer payroll taxes it owes on the Wage Portion.) 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 SIMA 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 be deposited with the California Controller’s Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.
6. 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 [REDACTED], 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 [REDACTED] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her/their 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 SIMA.

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 SIMA 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 SIMA have agreed that, in either case, the Settlement will be void: SIMA will not pay any money and Class Members will not release any claims against SIMA.

8. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (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 SIMA 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 SIMA 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:

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 (a) all claims for violations of California Labor Code sections 201-203, 204, 206, 206.5, 216, 218.5, 218.6, 221, 225.5, 226, 226.3, 226.6, 226.7, 229, 233, 234, 256, 350, 351, 353, 356, 432, 450, 510, 511, 512, 515, 558, 558.1, 1174, 1174.5, 1175, 1182.11, 1182.12, 1185, 1194, 1194.2, 1195, 1197, 1197.1, 1197.5, 1198.5, 1199, 2751 and 2802), violations of the applicable Wage Orders issued by the California Industrial Welfare Commission as Wage Order 5-2001, including, but not limited to, Sections 3, 4, 5, 7, 8, 9(A), 11, 12, 13 and 20, violations of the unlawful business practice provisions of California Business and Professions Code § 17000, et seq., and violations of related common law, and from (b) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and/or ascertained in the course of the Action, including, without limitation, any and all claims for: 1. failure to pay wages, including minimum wage and overtime; 2. failure to provide rest periods; 3. failure to provide meal periods; 4. failure to pay reporting time and other wages; 5. failure to timely pay compensation due and owing; 6. failure to provide accurate itemized wage statements; 7. unfair business practices; and 8. penalties pursuant to Labor Code § 2699. 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 SIMA has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against SIMA, 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 SIMA 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 (a) all claims for PAGA penalties based on any violations of California Labor Code sections 201-203, 204, 206, 206.5, 216, 218.5, 218.6, 221, 225.5, 226, 226.3, 226.6, 226.7, 229, 233, 234, 256, 350, 351, 353, 356, 432, 450, 510, 511, 512, 515, 558, 558.1, 1174, 1174.5, 1175, 1182.11, 1182.12, 1185, 1194, 1194.2, 1195, 1197, 1197.1, 1197.5, 1198.5, 1199, 2751 and 2802), violations of the applicable Wage Orders issued by the California Industrial Welfare Commission as Wage Order 5-2001, including, but not limited to, Sections 3, 4, 5, 7, 8, 9(A), 11, 12, 13 and 20, violations of the unlawful business practice provisions of California Business and Professions Code § 17000, et seq., and violations of related common law, and from (b) 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, and/or in the PAGA Notice and/or ascertained in the course of the Action. including, without limitation, PAGA penalties for: 1. failure to pay wages, including minimum wage and overtime; 2. failure to provide rest periods; 3. failure to provide meal periods; 4. failure to pay reporting time and other wages; 5. failure to timely pay compensation due and owing; 6. failure to provide accurate itemized wage statements; and 7. unfair business practices.

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 \$10,000 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA 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 SIMA's records, are stated in the first page of this Notice. You have until to challenge the number of Workweeks and/or PAGA 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 SIMA's calculation of Workweeks and/or PAGA Pay Periods based on SIMA'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 PAGA Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and SIMA'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 Arriaga v. 1576 Mission Drive, LLC, Santa Barbara County Superior Court Case No. 23CV05580, and include your identifying information (full name, address, telephone number, 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 [REDACTED], 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 SIMA are asking the Court to approve. At least 16 court days before the [REDACTED] 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 [REDACTED] (url).

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 [REDACTED].** 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 Arriaga v. 1576 Mission Drive, LLC, Santa Barbara County Superior Court Case No. 23CV05580, and include your name, current address, telephone number and

approximate dates of employment for SIMA 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 [REDACTED] at [REDACTED] (time) in Department [REDACTED] of the Santa Barbara County Superior Court, located at 312-C East Cook Street, Santa Maria, CA 93454. 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). 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 [REDACTED] 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 SIMA 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 [REDACTED].

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 <https://www.santabarbara.courts.ca.gov> and entering the Case Number for the Action, Case No. 23CV05580. You can also make an appointment to personally review court documents in the Clerk's Office at the courthouse by calling (805) 614-6414.

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

Class Counsel:

Name of Attorney: Joshua C. Braddock

Email Address: josh@abinjury.com

Name of Firm: Arendsen Braddock LLP

Mailing Address: 535 North Highway 101, Suite A, Solana Beach, CA 92075

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Name of Attorney: Zachary M. Cantor

Email Address: zachary@cantorlawyers.com

Name of Firm: Cantor Law

Mailing Address: 211 East Carrillo Street, Suite 301, Santa Barbara, CA 93101

Telephone: 805-586-2620
zachary@cantorlawyers.com

Settlement Administrator: _____

Name of Company: [REDACTED]
Email Address: [REDACTED]
Mailing Address: [REDACTED]
Telephone: [REDACTED]
Fax Number: [REDACTED]

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 should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

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.