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Attorneys for Plaintiff RAFAEL CRUZ,
individually and on behalf of all other similarly
situated employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

RAFAEL CRUZ, individually and on behalf
of all other similarly situated employees,

Plaintiff,

v.

ACTION TOWING AND ROAD SERVICE,
INC.; and DOES 1-25,

Defendants.

Case No. 24CV433466

CLASS ACTION

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT AND RELEASE**

Assigned for all purposes to:
Hon. Charles F. Adams, Dept. 7

Complaint filed: March 19, 2024
Trial date: Not yet set

1
2 **JOINT STIPULATION OF CLASS ACTION SETTLEMENT AND RELEASE**

3 IT IS HEREBY STIPULATED, by and among Plaintiff RAFAEL CRUZ, on behalf of
4 himself and the Settlement Class Members, on the one hand, and Defendant ACTION TOWING
5 AND ROAD SERVICE, INC., on the other hand, and subject to the approval of the Court, that
6 the above-captioned action is hereby being compromised and settled pursuant to the terms and
7 conditions set forth in this Joint Stipulation of Class Action Settlement and Release (the
8 “Settlement”).

9 **1. DEFINITIONS**

10 Capitalized terms used in this Settlement shall have the meanings set forth below:

11 1.1. “Action” means the putative class and PAGA action entitled *Rafael Cruz v. Action*
12 *Towing and Road Service, Inc.*, pending in the Superior Court of the State of California, County
13 of Santa Clara, and designated as Case No. 24CV433466.

14 1.2. “Class Member” means all non-exempt, hourly paid employees currently and
15 formerly employed by Defendant in the state of California from March 19, 2020 through
16 November 10, 2024, or the date the Court grants preliminary approval of this settlement,
17 whichever is earlier.

18 1.3. “PAGA Member” means all non-exempt, hourly paid employees currently and
19 formerly employed by Defendants in the state of California from January 15, 2023 through
20 November 10, 2024, or the date the Court grants preliminary approval of this settlement,
21 whichever is earlier.

22 1.4. “Settlement Administrator” means Simpluris.

23 1.5. “Settlement Administration Costs” means the amount to be paid to the third-party
24 Settlement Administrator from the Gross Settlement Amount for the administration of the
25 Settlement. The Settlement Administration Costs amount is not to exceed Eight Thousand Dollars
26 and Zero Cents (\$8,000.00). Any portion of the requested Settlement Administration Costs that
27 is not awarded to the Settlement Administrator shall be part of the Net Settlement Amount.

28 1.6. “Class Counsel” means Alexei Kuchinsky of Kuchinsky Law Office, P.C.

1 1.7. “Class Counsel Fees” means reasonable attorneys’ fees for Class Counsel’s
2 litigation and resolution of this Action, in the amount of Ninety Four Thousand Dollars
3 (\$94,000.00) (or 1/3 of the Gross Settlement Amount). The Court shall determine the amount of
4 the Class Counsel Fees, and it shall be paid from the Gross Settlement Amount. Any portion of
5 the requested Class Counsel Fees that is not awarded to Class Counsel shall be part of the Net
6 Settlement Amount.

7 1.8. “Class Counsel Costs” means actual expenses incurred by Class Counsel for Class
8 Counsel’s litigation and resolution of this Action, as supported by declaration, in an amount not
9 to exceed Fourteen Thousand Dollars (\$14,000.00). The Court shall determine the amount of the
10 Class Counsel Costs, and it shall be paid from the Gross Settlement Amount. Any portion of the
11 requested Class Counsel Costs that is not awarded to Class Counsel shall be part of the Net
12 Settlement Amount.

13 1.9. “Class Information” means information regarding Settlement Class Members that
14 Defendant will in good faith compile from its records and provide to the Settlement
15 Administrator. Class Information shall be provided as a Microsoft Excel spreadsheet and shall
16 include: each Settlement Class Member’s full name; last known address; last known home
17 telephone number; social security number; all start and end dates of employment during the Class
18 Period, and the total number of weeks each Settlement Class Member worked for Defendant
19 during the Class Period, based upon the hours worked by Class Members during the Class Period.
20 The number of weeks worked shall be calculated using Defendant’s payroll data during the Class
21 Period. Because social security numbers are included in the Class Information, the Settlement
22 Administrator shall maintain the Class Information in confidence; access shall be limited to those
23 with a need to use the Class Information as part of the administration of the Settlement, and
24 transmission shall be through use of a secure, password-protected file. If any or all of the Class
25 Members’ data is unavailable to Defendant, Defendant will so inform Class Counsel prior to the
26 date on which Defendants are required to submit the Class Members’ data to the Settlement
27 Administrator and the Parties will make their best efforts to reconstruct or otherwise agree upon
28 the Class Members’ data prior to when it must be submitted to the Settlement Administrator. If

the Parties are unable to agree, the dispute will be resolved by the Settlement Administrator.

1.10. “Class Period” means the period from March 19, 2020 through November 10, 2024, or the date the Court grants preliminary approval of this settlement, whichever is earlier.

1.11. “PAGA Period” means the period from January 15, 2023 through November 10, 2024, or the date the Court grants preliminary approval of this settlement, whichever is earlier.

1.12. “PAGA Released Claims” shall mean all claims, demands, rights, liabilities and causes of action for penalties under California Labor Code Private Attorneys General Act of 2004 against the Released Parties, based on the letter to the Labor & Workforce Development Agency on January 15, 2024, that arose during the PAGA Period, including but not limited to claims for civil penalties for violations of Labor Code sections 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1194, 1197.1, 2698-2699.5, 2802, and claims under California Business & Professions Code section 17200, and applicable Wage Orders of the Industrial Welfare Commission, and all related claims for attorneys’ fees and costs.

1.13. “Class Representative Service Award” means the amount that the Court authorizes to be paid to Plaintiff, not to exceed Ten Thousand Dollars (\$10,000.00), in addition to Plaintiff’s Individual Settlement Payment. The Class Representative Service Award to Plaintiff is in exchange for the Released Claims, Plaintiff’s General Released Claims, and for Plaintiff’s efforts and risks in assisting with the prosecution of the Action. The Class Representative Service Award shall be paid from the Gross Settlement Amount. Any portion of the requested Class Representative Service Award that are not awarded to Plaintiff shall be part of the Net Settlement Amount.

1.14. “Court” means the Superior Court of the State of California for the County of Santa Clara.

1.15. “Defendant” means Action Towing and Road Service, Inc., Action Road Solutions, LLC, and each of their parent companies, subsidiaries, related companies, affiliates, dbas, current and former management companies, shareholders, members, agents (including any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns or any related entity that

1 was the “employer” of Class Members.

2 1.16. “Defendant’s Counsel” means Timothy B. Nelson and Mayra Sandoval of Medina
3 McKelvey LLP.

4 1.17. “Effective Date” means the date that the Gross Settlement Amount is fully funded.

5 1.18. “Employee Taxes” means the employee’s share of any and all applicable federal,
6 state, and local payroll taxes on the portion of Settlement Class Members’ Individual Settlement
7 Payment that constitutes wages. The Employee Taxes shall be paid out of the Net Settlement
8 Amount.

9 1.19. “Employer Taxes” means the employer’s share of any and all applicable federal,
10 state, and local payroll taxes on the portion of Settlement Class Members’ Individual Settlement
11 Payment that constitutes wages. The Employer Taxes shall be paid by Defendants separately and
12 not out of the Gross Settlement Amount or Net Settlement Amount.

13 1.20. “Final Approval Hearing” means the hearing held on the motion for final approval
14 of the Settlement.

15 1.21. “Final Approval Date” means the date which the Court grants final approval of the
16 Settlement.

17 1.22. “Final Judgment” means the Court’s entry of an order of judgment in this Action
18 following the Court’s final approval of the Settlement.

19 1.23. “Gross Settlement Amount” means the maximum amount Defendants shall have
20 to pay in connection with this Settlement, by way of a common fund, which shall be inclusive of
21 all Individual Settlement Amounts to Settlement Class Members, Class Counsel Fees, Class
22 Counsel Costs, Settlement Administrator Costs, Class Representative Service Award, PAGA
23 Allocation, and Employee Taxes. Subject to Court approval and the terms of this Settlement, the
24 Gross Settlement Amount Defendant shall be required to pay is Two Hundred Eighty Two
25 Thousand Dollars and Zero Cents (\$282,000.00). No portion of the Gross Settlement Amount
26 will revert to Defendant, and the Settlement does not require Settlement Class Members to submit
27 claims as a prerequisite to receiving their Individual Settlement Payment. This settlement sum is
28 based on Defendant’s representation that the number of total Workweeks during the Class Period

1 through August 1, 2024 was Twenty-Eight Thousand Two Hundred and Sixty (28,260).
2 Workweeks were calculated by determining the total number of hours worked by Class Members
3 in the Class Period and dividing by 42.8, which is the average number of hours Class Members
4 worked each week during the Class Period. Defendant shall not be required to pay more than the
5 Gross Settlement Amount as long as the actual number of Workweeks during the Class Period is
6 no more than ten percent (10%) greater than Defendant's estimate. If the number of workweeks
7 between March 19, 2020, to August 1, 2024 is more than 10% higher than 28,260 workweeks
8 worked (more than 31,086 workweeks), Defendant has the option to either: (1) agree to increase
9 the Gross Settlement Amount on a proportional basis (*i.e.*, if the workweek count increases by
10 12%, then Defendant would agree to increase the Gross Settlement Amount by 2%); or (2) in the
11 alternative, if the total workweeks between March 19, 2020 and August 1, 2024 exceed 31,086
12 workweeks, then Defendant may choose to adjust the end of the applicable class period, such that
13 the applicable class period will include no more than 31,086 workweeks in lieu of paying an
14 increase to the Gross Settlement Amount. Under no other circumstances shall Defendant be
15 required to pay more than the Gross Settlement Amount except as provided for in this section of
16 the Settlement Agreement.

17 1.24. "Individual Settlement Payment" means the amount payable to each Settlement
18 Class Member, as calculated pursuant to Paragraph 3.12.1 of the Settlement, from the Net
19 Settlement Amount. Checks for Individual Settlement Payments shall specifically indicate that
20 they are void if not negotiated within one hundred eighty (180) days of their issuance.

21 1.25. "PAGA Allocation" means Thirty Thousand Dollars (\$30,000.00), allocated from
22 the Gross Settlement Amount for the compromise of claims brought under the Labor Code Private
23 Attorneys General Act of 2004 ("PAGA"). Per California Labor Code section 2699(i), Twenty
24 Two Thousand Five Hundred Dollars (\$22,500.00), representing 75% of the PAGA Allocation,
25 shall be paid to California's Labor and Workforce Development Agency. The remaining Seven
26 Thousand Five Hundred Dollars (\$7,500.00), representing 25% of the PAGA Allocation, shall be
27 part of the Net Settlement Amount and shall be distributed to PAGA Members.

28 1.26. "LWDA" shall mean the California Labor and Workforce Development Agency.

1 1.27. “LWDA PAGA Allocation” means Twenty Two Thousand Five Hundred Dollars
2 (\$22,500.00), representing 75% of the PAGA Allocation, and is the amount payable from the
3 Gross Settlement Amount to California’s Labor and Workforce Development Agency.

4 1.28. “PAGA Member Allocation” means Seven Thousand Five Hundred Dollars
5 (\$7,500.00), representing the PAGA Allocation, and is the amount payable to PAGA Members.
6 The PAGA Member Allocation shall be distributed in its entirety to PAGA Class Members
7 pursuant to paragraph 3.13.

8 1.29. “Net Settlement Amount” means the Gross Settlement Amount, less the Class
9 Counsel Fees, the Class Counsel Costs, the Class Representative Service Award, the Settlement
10 Administration Costs, the LWDA PAGA Allocation, and PAGA Member Allocation. The Net
11 Settlement Amount shall be distributed in its entirety to Settlement Class Members, as provided
12 for in this Settlement.

13 1.30. “Notice of Objection” means a written statement of objection to the Settlement,
14 made and signed by a Settlement Class Member and includes the following: (1) this case name and
15 number; (2) the full name of the Settlement Class Member; (3) the dates of employment of the Settlement
16 Class Member; (4) the last four digits of the Settlement Class Member’s Social Security number and/or
17 the entire Employee ID number; (5) the basis for the objection; and, (6) whether the Settlement Class
18 Member intends to appear at the Final Approval Hearing.

19 1.31. “Notice of Settlement” means the Notice of Proposed Class Action and Notice of
20 Private Attorneys General Act Settlement (attached hereto as **Exhibit A**).

21 1.32. “Notice Packet” means the Notice of Proposed Class Action and the Class
22 Workweek Dispute Form, to be provided in English.

23 1.33. “Settlement Class Members” means all Class Members who do not submit a valid
24 and timely Request for Exclusion.

25 1.34. “Parties” means Plaintiff and Defendant collectively; and “Party” shall mean any
26 Defendant or Plaintiff, individually.

27 1.35. “Plaintiff” means Rafael Cruz.

28 1.36. “Plaintiff’s General Released Claims” means, in addition to the Released Claims,

1 Plaintiff, on behalf of himself, his respective, agents, spouses, executors, representatives, heirs,
2 successors, assigns, and estates, in exchange for the terms and conditions of this Settlement,
3 including the Class Representative Service Award requested or as otherwise authorized by the
4 Court, shall also, as of the Effective Date, fully and forever release the Released Parties, to the
5 full extent permitted by law, of and from any and all claims arising from his employment with
6 Defendant, known and unknown, asserted and unasserted, which Plaintiff had or may have had
7 against the Released Parties, whether sounding in tort, in contract, in law, in equity or otherwise,
8 and including but not limited to all claims for violation of any local, state, or federal statute, rule,
9 or regulation. Plaintiff expressly waives and relinquishes all rights and benefits afforded by section
10 1542 of the Civil Code of the State of California and does so understanding and acknowledging
11 the significance of such specific waiver of section 1542. Section 1542 of the Civil Code of the
12 State of California states as follows:

13 **A general release does not extend to claims that the creditor or releasing party does**
14 **not know or suspect to exist in her or her favor at the time of executing the release**
15 **and that, if known by her or her, would have materially affected her or her**
16 **settlement with the debtor or released party.**

17 Notwithstanding the above, Plaintiff's General Released Claims do not include any
18 workers' compensation claims, claims that cannot be waived as a matter of law by signing this
19 agreement, or claims to enforce this Agreement. No release in this Agreement is effective until
20 the Gross Settlement Amount is fully funded.

21 1.37. "Preliminary Approval Date" means the date the Court enters the Preliminary
22 Approval Order for the Settlement.

23 1.38. "Preliminary Approval Order" means the proposed order (filed concurrently with
24 this Settlement and Plaintiff's motion for preliminary approval of the Settlement), as may be
25 amended by the Court, for preliminary approval of the Settlement.

26 1.39. "Released Claims" means any and all claims during the Class Period which were
27 or could have been raised based on the facts, conduct, and/or omissions alleged in the Action,
28 including all wage and hour claims, demands, rights, liabilities, and causes of action for unpaid

wages, including minimum wage payments, regular wages, overtime wages; failure to pay wages during employment; failure to pay all wages due upon separation of employment; failure to maintain and provide accurate records; meal and rest break violations; failure to pay meal and rest break premiums; wage statement violations; failure to reimburse for necessary business expenditures; violation of the Private Attorneys General Act (California Labor Code section 2698, et seq.); claims for civil and statutory penalties, interest, liquidated damages, attorney's fees and costs; claims under California Labor Code sections 201, 202, 203, 204, 206, 210, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, 2698-2699.5, and applicable Industrial Welfare Commission Wage Orders; and claims under California Business & Professions Code sections 17200-17204. It is understood and agreed that Released Claims do not include claims for workers' compensation, unemployment, or disability benefits of any nature, nor any claims, actions, or causes of action which may be possessed by Settlement Class Members under state or federal discrimination statutes, including, without limitation, the California Fair Employment and Housing Act, California Government Code section 12940, et seq.; the Unruh Civil Rights Act, California Civil Code section 51, et seq.; the California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000, et seq.; the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, et seq.; the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001, et seq.; and all of their implementing regulations and interpretive guidelines. No release in this Agreement shall become effective until the Gross Settlement Amount is fully funded.

1.40. "Released Parties" means Action Towing and Road Service, Inc., Action Road Solutions, LLC, and each of their parent companies, subsidiaries, related companies, affiliates, dbas, current and former management companies, shareholders, members, agents (including any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns, or any related entity that was the "employer" of Class Members.

1.41. "Released Parties' Release of Claims Against Representative Plaintiff" means Released Parties, as defined herein, do hereby, for themselves, and for their heirs, successors,

1 predecessors, attorneys, agents, representatives and assigns, forever release the Representative
2 Plaintiff from any and all charges, complaints, claims, liabilities, obligations, promises,
3 agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs,
4 losses, debts, and expenses (including attorneys' fees and costs actually incurred) of any nature
5 whatsoever, from the beginning of time through the date of their signature on this Settlement
6 Agreement, known or unknown, suspected or unsuspected, including but not limited to all claims
7 arising out of, based upon, or relating to Representative Plaintiff's employment with Defendants
8 and related to this Lawsuit.

9 1.42. Released Parties expressly waive and relinquish all rights and benefits afforded by
10 section 1542 of the Civil Code of the State of California as to the Representative Plaintiff and do
11 so understanding and acknowledging the significance of such specific waiver of section 1542.
12 Section 1542 of the Civil Code of the State of California states as follows:

13
14 **A general release does not extend to claims that the creditor or releasing party**
15 **does not know or suspect to exist in her or her favor at the time of executing**
16 **the release and that, if known by her or her, would have materially affected**
17 **her or her settlement with the debtor or released party.**

18 1.43. Thus, subject to and in accordance with this Settlement Agreement, even if
19 Released Parties may hereafter discover facts in addition to or different from those they now know
20 or believe to be true, Released Parties shall be deemed to have fully, finally, and forever settled
21 and released any and all claims against the Representative Plaintiff that could have been alleged
22 against him, as well as any other claims, whether known or unknown, suspected or unsuspected,
23 contingent or non-contingent, that now exist, upon any theory of law or equity, including without
24 limitation, conduct which is negligent, intentional, with or without malice, or a breach of any
25 duty, law, or rule, without regard to the subsequent discovery or existence of such different or
26 additional facts.

27 1.44. "Response Deadline" means the date forty-five (45) days after the Settlement
28 Administrator mails the Notice Packets to Settlement Class Members, and shall be the last date
on which Settlement Class Members may: (a) postmark Requests for Exclusion from the

Settlement, or (b) postmark Objections to the Settlement.

1.45. “Settlement” means this Joint Stipulation of Class Action Settlement and Release.

1.46. “Settlement Class Member(s)” or “Settlement Class” means all non-exempt employees, currently and formerly employed by Action Towing and Road Service, Inc. and Action Road Solutions, LLC in the State of California at any time during the Class Period. Based on a review of Defendant’s records to date, Defendant estimates there are 323 Class Members.

1.47. “Workweeks” shall mean the number of weeks each Class Member worked for Defendant as an hourly-paid and/or non-exempt employee in California during the Class Period. The Settlement Administrator will calculate the number of Workweeks by calculating the number of hours actually worked by each Class Member worked for Defendant during the Class Period, and dividing by forty two and 8/10 (42.8), which is the average number of hours Class Members worked each week during the Class Period. The number of hours worked by each Class Member will not include vacation hours, sick hours, hours in which an employee on leave, or any other hours that do not reflect time the Class Member was actively working for Defendant.

2. RECITALS

2.1. Class Certification. The Parties stipulate and agree to the conditional certification of this Action for purposes of this Settlement only. Should, for whatever reason, the Settlement not become final and effective, conditional Class Certification shall immediately be set aside (subject to further proceedings on motion of any Party to certify or decertify thereafter). The Parties’ willingness to stipulate to conditional Class Certification as part of the Settlement shall have no bearing on and shall not be admissible or considered in connection with the issue of whether a class should be certified in a non-settlement context in this Action, and shall have no bearing on and shall not be admissible or considered in connection with the issue of whether a class should be certified in any other lawsuit. Defendant expressly reserves their right to oppose class certification should this Settlement be modified or reversed on appeal or otherwise not become final and effective for any reason.

2.2. Procedural History. On January 15, 2024, Plaintiff submitted his PAGA letter to the LWDA alleging Defendant violated, among other provisions of the California Labor Code

1 and applicable wage law, Labor Code sections 200, 201, 202, 203, 204, 210, 226, 226.3, 226.7,
2 510, 512, 558, 1174, 1194, 1197.1, 2698-2699.5, 2802, California Business & Professions Code
3 section 17200, and applicable Wage Orders of the Industrial Welfare Commission. On March
4 19, 2024, Plaintiff filed a lawsuit in the Superior Court of California for the County of Santa Clara
5 as a proposed class action on behalf of all current and former non-exempt California employees
6 of Defendant during the period of March 19, 2020 through the date of final judgment. In his
7 initial complaint Plaintiff alleged that Defendant (1) failed to pay for all hours worked in violation
8 of California Labor Code sections 1194, 1194.2, and IWC Wage Order; (2) failure to pay overtime
9 in violation of California Labor Code sections 510, 1194, and IWC Wage Order; (3) failure to
10 provide meal periods in violation of California Labor Code sections 226.7, 512, and IWC Wage
11 Order; (4) failure to provide rest periods in violation of California Labor Code section 226.7 and
12 IWC Wage order; (5) failure to provide accurate itemized wage statements in violation of
13 California Labor Code section 226; (6) failure to pay all wages owed upon separation in violation
14 of California Labor Code sections 201-203; (7) civil penalties pursuant to Labor Code Private
15 Attorneys General Act of 2004, Labor Code sections 2698 *et seq.*; and (8) violations of Business
16 and Professions Code Section 17200 *et seq.* Plaintiff sought recovery under the California Labor
17 Code, the applicable Industrial Welfare Commission Wage Order, and the California Business &
18 Professions Code.

19 2.3. Settlement Negotiations. On August 12, 2023, the Parties participated in a full-
20 day private mediation session with mediator Mark LeHocky, Esq. Prior to the mediation,
21 Defendant provided Plaintiff's counsel with the following documents and information: (1)
22 Plaintiff's entire personnel file; (2) Plaintiff's time and pay records; (3) Defendant's employee
23 handbooks utilized during the Class Period; (4) time records and corresponding payroll records
24 for a sample of putative class members; (5) other relevant documents, including samples of other
25 policy documents. These documents and this information allowed Class Counsel to construct a
26 damages analysis. Based on the information obtained through informal discovery, the Parties
27 reached an agreement in principle to the basic terms of a class-action settlement agreement at the
28 mediation. The Settlement is the result of an informed and detailed evaluation of the total

1 exposure and potential liability, in relation to the costs and risks associated with continued
2 litigation of the Action. The Parties have engaged in sufficient discovery and investigation to
3 assess the relative merits of the claims, defenses, and contentions of the Parties.

4 2.4. Benefits of Settlement to Settlement Class Members. Plaintiff and Class Counsel
5 recognize the length of continued proceedings necessary to litigate the Parties' disputes through
6 certification, trial, and any possible appeal. Plaintiff and Class Counsel have also taken into
7 account the uncertainty and risk of the outcome of further litigation, the difficulties and delays
8 inherent in such litigation, including, but not limited to, the risks related to a contested motion for
9 class certification, potential motions for decertification, trial, and appeal. Plaintiff and Class
10 Counsel are also aware of the burdens of proof necessary to establish liability for the claims
11 asserted in the Action and the difficulties in establishing damages for the Class Members.
12 Plaintiff and Class Counsel have also taken into account Defendant's agreement to enter into a
13 settlement that confers substantial relief upon Class Members. Based on the foregoing, Plaintiff
14 and Class Counsel have determined that this Settlement is fair, adequate, and reasonable, and is
15 in the best interests of the Class Members.

16 2.5. Defendant's Denial of Wrongdoing and Liability and Reasons for Settlement.
17 Defendant has denied and continues to deny each and all of the claims and contentions alleged in
18 the Action. Defendants have repeatedly asserted, and continue to assert, defenses thereto, and
19 have expressly denied, and continue to deny, any wrongdoing or legal liability arising out of any
20 of the facts, conduct, and/or omissions alleged in the Action. Defendant has also denied, and
21 continues to deny, *inter alia*, the allegations that the Class Members have suffered damage.
22 Without limiting the foregoing, Defendant contends that the Class Members were properly and
23 timely paid all wages owed, including, but not limited to, all straight and overtime pay; were
24 provided timely and uninterrupted meal and rest periods as required under California law; were
25 properly and timely paid all wages upon separation of employment or otherwise when due; were
26 properly and timely provided accurate itemized wage statements as required under California law;
27 and that Defendant has not engaged in any unlawful, unfair, or fraudulent business practices in
28 violation of California law. However, Defendant has concluded that any further defense of this

1 litigation would be protracted and expensive for all Parties. Substantial amounts of time, energy,
2 and resources of Defendant have been and, unless this Settlement is approved, will continue to be
3 devoted to the defense of the claims asserted by Plaintiff and Class Members. Defendant has also
4 taken into account the uncertainty and risks inherent in any litigation, especially in complex cases
5 such as this Action. Based on the foregoing, Defendant has concluded that it is desirable and
6 beneficial that the Action be fully and finally settled in the manner and upon the terms and
7 conditions set forth in this Settlement. This will allow Defendant to dispose of burdensome and
8 protracted litigation, permit the operation of Defendant's business without further expensive
9 litigation, and put an end to the distraction and diversion of its personnel regarding matters at
10 issue in the Action.

11 2.6. No Admissions. The Parties understand and agree that this Settlement is the result
12 of a good faith compromise of disputed claims and allegations, and Defendants are entering into
13 this Settlement solely to resolve disputed matters. No part of this Settlement or any conduct or
14 written or oral statements made in connection with this Settlement, whether or not the Settlement
15 is finally approved and/or consummated, is or may be offered as or construed to be an admission
16 or concession of any kind by any of the Parties. In particular, but without limiting the generality
17 of the foregoing, nothing about this Settlement shall be offered or construed as an admission that
18 Defendant violated any of its obligations under the California Labor Code, applicable Industrial
19 Welfare Commission Wage Orders, Business and Professions Code or Private Attorneys General
20 Act, or of liability in general, or any wrongdoing, impropriety, responsibility, or fault whatsoever
21 on the part of Defendant and/or the Released Parties. In addition, this Settlement shall not be
22 offered or be admissible in evidence against any of the Parties or any of the Released Parties,
23 except in any action or proceeding brought by or against Plaintiff, Class Members, or Defendant
24 to enforce the Settlement's terms, or by Defendant in defense of any claims brought by Plaintiff
25 or Class Members. The provisions of this paragraph shall become effective when this Settlement
26 is signed by all Parties, and shall be binding on the Parties and their counsel regardless of whether
27 the Settlement is preliminarily and/or finally approved or terminated for any reason, or rendered
28 null and void.

1 2.7. Class Members' Claims. Plaintiff claims that the Released Claims have merit and
2 give rise to liability on the part of Defendant. This Settlement is a compromise of disputed claims.
3 Nothing contained in this Settlement, and no documents referred to herein, nor any action taken
4 to carry out this Settlement, may be construed or used as an admission by or against the Plaintiff,
5 Class Members or Class Counsel as to the merits or lack thereof of the claims asserted in the
6 Action.

7 2.8. Defendant's Defenses. Defendant has denied and continues to deny each and all
8 of the allegations, claims, and contentions of wrongdoing alleged by Plaintiff in the Action.
9 Defendant has expressly denied and continues to deny all charges of wrongdoing or liability
10 against it arising out of any of the conduct, statements, acts, or omissions alleged in the Action.
11 Defendant contends that it complied in good faith with California and federal wage-and-hour laws
12 and have dealt legally and fairly with Plaintiff and Class Members. Defendant further denies that,
13 for any purpose other than settling this Action, these claims are appropriate for class or
14 representative treatment.

15 **3. TERMS OF SETTLEMENT**

16 The Parties agree as follows:

17 3.1. Binding Settlement. This Settlement shall bind the Parties and all Settlement Class
18 Members, subject to the terms and conditions set forth in the Settlement and the Court's approval.

19 3.2. Release As To All Settlement Class Members and Plaintiff.

20 3.2.1. Release As To All Settlement Class Members. As of the Effective Date, all
21 Settlement Class Members, including Plaintiff, will be deemed to have fully, finally and forever
22 released, settled, compromised, relinquished, and discharged the Released Parties from the
23 Released Claims during the Class Period. This release shall be binding on all Settlement Class
24 Members, including each of their respective attorneys, agents, executors, representatives,
25 guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit of the Released
26 Parties, who shall have no further or other liability or obligation to any Class Member with respect
27 to the Released Claims, except as expressly provided herein. All PAGA Members, regardless of
28

whether they submit timely and valid Requests for Exclusion from the Settlement, will release all
PAGA Released Claims, as well as claims that could have been premised on the claims, causes
of action or legal theories alleged in the Action, during the PAGA Period. Plaintiff on behalf of
the State of California and the LWDA will also release all PAGA Released Claims.

3.2.2. Release As To Plaintiff. As of the Effective Date, Plaintiff will be deemed
to have fully, finally and forever released, settled, compromised, relinquished, and discharged
any and all of Plaintiff's General Released Claims against the Released Parties. With respect to
the Plaintiff's General Released Claims only, Plaintiff shall be deemed to have, and by operation
of the Final Judgment shall have, in light of his respective Class Representative Service Award,
expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights,
and benefits of section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which 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.

Plaintiff may hereafter discover facts in addition to or different from those she now knows
or believes to be true with respect to the subject matter of the Plaintiff's General Released Claims,
but upon the Effective Date, shall be deemed to have, and by operation of the Final Judgment
shall have, fully, finally, and forever settled and released any and all of the Plaintiff's General
Released Claims, whether known or unknown, suspected or unsuspected, contingent or non-
contingent, which now exist, or heretofore have existed, upon any theory of law or equity now
existing or coming into existence in the future. Plaintiff agrees not to sue or otherwise make a
claim against any of the Released Parties for Plaintiff's General Released Claims.

3.3. Tax Liability. The Parties understand and agree that the Parties are not providing
tax or legal advice. Defendant shall be responsible for any Employer Taxes due as a result of the
Settlement. These payments shall be separate and shall not be made from the Gross Settlement
Amount or the Net Settlement Amount. Settlement Class Members shall remain responsible for

any Employee Taxes due as a result of the Settlement. Settlement Class Members will assume any employee tax obligations or consequences that may arise from this Settlement and should consult with a tax expert if they have questions. However, Individual Settlement Payments will be allocated as follows: one-fifth as wages (for which an IRS Form W-2 will be issued) and four-fifths as interest and penalties (for which an IRS Form 1099 will be issued). Any required payroll deductions will be based on this apportionment. The Parties agree that, in the event that any taxing body determines that additional employee taxes are due from any Settlement Class Member, such Settlement Class Member assumes all responsibility for the payment of such taxes.

3.4. Circular 230 Disclaimer. The Parties acknowledge and agree that (1) no provision of this Settlement, and no written communication or disclosure between or among the Parties, Class Counsel or Defendant's Counsel and other advisers, is or was intended to be, nor shall any such communication or disclosure constitute or be construed, or be relied upon, as tax advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging Party (a) has relied exclusively upon his, her, or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Settlement, (b) has not entered into this Settlement based upon the recommendation of any other Party or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or advisor to any other Party to avoid any tax penalty that may be imposed on the acknowledging Party; and (3) no attorney or advisor to any other Party has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally binding) upon disclosure by the acknowledging Party of the tax treatment or tax structure of any transaction, including any transaction contemplated by this Settlement.

3.5. Settlement Approval and Implementation Procedures. As part of this Settlement, the Parties agree to the following procedures for obtaining the Court's preliminary approval of the Settlement: conditionally certifying the Settlement Class, notifying Class Members of the Settlement and distributing the PAGA Payment, obtaining the Court's final approval of the Settlement, and processing the Individual Settlement Payments, as set forth below.

1 3.5.1. Preliminary Approval and Certification. As soon as practicable after
2 execution of this Settlement, pending the Court's availability, Plaintiff will submit this Settlement
3 to the Court for preliminary approval of the Settlement, in accordance with California Rules of
4 Court, Rule 3.769(c). Such submission will include this Settlement, the proposed Notice Packet,
5 the proposed Preliminary Approval Order, and any memoranda and evidence as may be necessary
6 for the Court to determine that this Settlement is fair, adequate, and reasonable. The Parties agree
7 to request the Court to enter an order conditionally certifying the Settlement Class after the
8 preliminary approval hearing, in accordance with California Rules of Court, Rule 3.769(d).

9 3.5.2. Class Information. No more than fourteen (14) calendar days after the
10 entry of the Preliminary Approval Order by the Court, Defendant shall provide the Settlement
11 Administrator with the Class Information for purposes of mailing Notice Packets to Class
12 Members. Defendant shall also provide the Settlement Administrator a separate list of PAGA
13 Members and dates of PAGA Members' employment with Defendant.

14 3.5.3. Notice by First Class U.S. Mail. Upon receipt of the Class Information,
15 the Settlement Administrator will perform a search on the National Change of Address database
16 to update the Class Members' addresses. No more than ten (10) calendar days after receiving the
17 Class Information from Defendant, as provided herein, the Settlement Administrator shall mail
18 copies of the Notice Packet to all Class Members by regular First-Class U.S. Mail. The Settlement
19 Administrator shall exercise its best judgment to determine the current mailing address for each
20 Class Member. The address identified by the Settlement Administrator as the current mailing
21 address shall be presumed to be the best mailing address for each Class Member. It will be
22 conclusively presumed that if an envelope so mailed has not been returned within twenty (20)
23 days of the mailing that the Class Member received the Notice Packet.

24 3.5.4. Undeliverable Notices. Any Notice Packets returned to the Settlement
25 Administrator as undeliverable on or before the Response Deadline shall be re-mailed to the
26 forwarding address affixed thereto or as described in paragraph 3.5.5 of this Settlement.

27 3.5.5. For each Class Member whose Notice Packet is returned, and a forwarding
28 address is not affixed thereto, there will be one skip trace by the Settlement Administrator. If an

1 updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet
2 to the Class Member at the updated mailing address so identified. One supplemental Notice
3 Packet shall be mailed to each Class Member whose original Notice Packet is returned as
4 undeliverable to the Settlement Administrator, if a forwarding or updated address can be
5 identified. Such re-mailing shall be made within five (5) business days of the Settlement
6 Administrator receiving notice that the respective Notice Packet was undeliverable. Any requests
7 to Defendant's Counsel by the Settlement Administrator for documents or information from
8 Defendant must be responded to within a reasonable amount of time by Defendant's Counsel. It
9 is the intent of the Parties that reasonable means be used to locate the Class Members and apprise
10 them of their rights.

11 3.5.6. Class Members to whom Notice Packets are resent after having been
12 returned undeliverable to the Settlement Administrator shall have fourteen (14) calendar days
13 thereafter, or until the Response Deadline has expired, whichever is later, to mail the Request for
14 Exclusion or a Notice of Objection. Notice Packets that are resent shall inform the recipient of
15 this adjusted deadline. The date of the postmark on the return envelope shall be the exclusive
16 means used to determine whether a Class Member has returned his or her Request for Exclusion
17 on or before the adjusted deadline. It will be conclusively presumed that if an envelope so mailed
18 has not been returned within thirty (30) days of the mailing, that the Class Member received the
19 Notice Packet. If a Class Member's Notice Packet is returned to the Settlement Administrator
20 more than once as undeliverable, then an additional Notice Packet shall not be re-mailed.

21 3.5.7. Compliance with the procedures specified in paragraphs 3.5.3 through
22 3.5.6 of this Settlement shall constitute due and sufficient notice to Class Members of this
23 Settlement and shall satisfy the requirement of due process. Nothing else shall be required of, or
24 done by, the Parties, Class Counsel, and Defendant's Counsel to provide notice of the proposed
25 Settlement.

26 3.6. Disputes. Class Members will have the opportunity during the 45-day response
27 period, should they disagree with Defendant's records regarding their weeks worked during the
28 Class Period, to provide a completed Class Workweek Dispute Form (attached hereto as **Exhibit**

1 **B)**, documentation and/or an explanation to show contrary weeks worked. If there is a dispute,
2 the Settlement Administrator will consult with the Parties to determine whether an adjustment is
3 warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of,
4 any Individual Settlement Payments under the terms of this Settlement. The Settlement
5 Administrator's determination of the eligibility for and amount of any Individual Settlement
6 Payment shall be binding upon the Class Member and the Parties.

7 3.7. Exclusions (Opt-Outs). The Notice Packet shall state that Class Members who
8 wish to exclude themselves from the Settlement must submit a Request for Exclusion by the
9 Response Deadline. A Class Member may submit a Request for Exclusion by submitting a
10 writing that contains: (1) the name and number of this case; (2) the name, address, and the last
11 four digits of the Social Security number and/or the entire Employee ID number of the Class
12 Member requesting exclusion; (3) a clear statement requesting to be excluded from the Class
13 Settlement; (4) must be signed by the Class Member; and (5) must be postmarked by the Response
14 Deadline and returned to the Settlement Administrator at the specified address. If the Request for
15 Exclusion does not contain the information listed in (1)-(4), it will not be deemed a valid Request
16 for Exclusion from this Settlement. The date of the postmark on the return mailing envelope shall
17 be the exclusive means used to determine whether a Request for Exclusion has been timely
18 submitted. Any Class Member who requests to be excluded from the Settlement in accordance
19 with the provisions of this paragraph will not be entitled to any recovery under the Settlement and
20 will not be bound by the terms of the Settlement (except as to the PAGA Released Claims, which
21 Class Members cannot request to be excluded from). Class Members who receive a Notice Packet
22 but fail to submit a valid and timely Request for Exclusion on or before the Response Deadline,
23 which is forty-five (45) days from the date of the mailing of the Notice Packet, shall be bound by
24 all terms of the Settlement and any Final Judgment entered in this Action if the Settlement is
25 approved by the Court. Any Class Member who does not request exclusion as set forth above is
26 deemed to have released all claims, including Released Claims against Released Parties, as set
27 forth herein and therefore by operation will be deemed a Settlement Class Member. At no time
28 shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the

1 Class to submit Requests for Exclusion from the Settlement. Class Counsel shall not represent
2 any Class Member with respect to any such Request for Exclusion. Class Members who submit
3 a valid Request for Exclusion may not also submit a Notice of Objection. PAGA Members cannot
4 opt out or submit a request for exclusion from the PAGA portion of the Settlement.

5 3.8. Objections. The Notice Packet shall state that Class Members who wish to object
6 to the Settlement shall submit a written statement of objection (“Notice of Objection”) by the
7 Response Deadline, which is forty-five (45) days from the date of the mailing of the Notice
8 Packet, to the Settlement Administrator. The Notice of Objection must be signed by the Class
9 Member and state: (1) the full name of the Class Member; (2) the dates of employment of the
10 Class Member; (3) the last four digits of the Class Member’s Social Security number and/or the
11 entire Employee ID number; (4) the basis for the objection; and, (5) whether the Class Member
12 intends to appear at the Final Approval Hearing. The Notice of Objection must be postmarked by
13 the Response Deadline and returned to the Settlement Administrator at the specified address.
14 Within five (5) days of receiving a Notice of Objection from a Settlement Class Member, the
15 Settlement Administrator shall forward the Notice of Objection to Class Counsel and Defendants’
16 Counsel. The Parties shall thereafter lodge the Class Member’s Notice of Objection with the
17 Court. Class Members, regardless of whether or not they submit a timely Notice of Objection,
18 will have a right to appear at the Final Approval Hearing, with or without an attorney, and have
19 their objections heard by the Court. At no time shall any of the Parties or their counsel seek to
20 solicit or otherwise encourage Class Members to file or serve written objections to the Settlement
21 or to appeal from the Final Judgment. Class Counsel shall not represent any Class Member with
22 respect to any such objection.

23 3.9. Plaintiff’s Participation. By executing this Settlement, Plaintiff hereby stipulates
24 he will not object to or exclude himself from the Settlement in any way.

25 3.10. No Solicitation of Settlement Objections or Exclusions. The Parties and their
26 counsel agree to use their best efforts to carry out the terms of this Settlement. At no time shall
27 any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit
28 Notices of Objection to the Settlement or Requests for Exclusion from the Settlement, or to appeal

1 from the Court's Final Judgment.

2 3.11. Funding of the Gross Settlement Amount. This is a non-reversionary Settlement
3 in which Defendant is required to pay the entire Gross Settlement Amount. No portion of the
4 Gross Settlement Amount will revert to Defendant. Defendant is separately and solely
5 responsible for any employer payroll taxes owed as a result of the Settlement. Defendant shall
6 fund the Gross Settlement Amount by no later than sixty (60) calendar days after the Final
7 Approval Date. No release in this Settlement shall be effective until the Gross Settlement Amount
8 is fully funded.

9 3.11.1. No more than five (5) business days after Defendant makes the Gross
10 Settlement Amount payment, the Settlement Administrator shall provide the Parties with an
11 accounting of all anticipated payments from the Gross Settlement Amount. The Net Settlement
12 Amount shall be calculated by deducting from the Gross Settlement Amount the anticipated
13 payments for (1) Class Representative Service Award, as specified in this Settlement and
14 approved by the Court; (2) Class Counsel Fees, as specified in this Settlement and approved by
15 the Court; (3) Class Counsel Costs, as specified in this Settlement and approved by the Court;
16 (4) Settlement Administration Costs, as specified in this Settlement and approved by the Court;
17 and (5) the LWDA PAGA Allocation, as specified in this Settlement and approved by the Court.
18 The Net Settlement Amount shall be distributed in Individual Settlement Payments in accordance
19 with Paragraphs 3.12, 3.12.1 and 3.13.

20 3.12. Individual Settlement Payments. Each Settlement Class Member shall be eligible
21 to receive an Individual Settlement Payment, which is a share of the Net Settlement Amount,
22 based on the number of weeks worked by the Settlement Class Member for Defendant during the
23 Class Period, as a proportion of all weeks worked by all Class Members for Defendant during the
24 Class Period. Individual Settlement Payments shall be paid by check pursuant to the formula set
25 forth in Paragraph 3.12.1 and 3.13 below. Individual Settlement Payments shall be mailed by
26 regular First-Class U.S. Mail to Settlement Class Members' last known mailing address no later
27 than fifteen (15) calendar days after Defendant makes the payment of the Gross Settlement
28 Amount. Individual Settlement Payments shall specifically indicate that they are void if not

1 negotiated within one hundred eighty (180) days of their issuance. Individual Settlement
2 Payments reflect settlement of a dispute regarding wages, interest, and penalties. Individual
3 Settlement Payments will be allocated as follows: one-fifth as wages; and fourth-fifths as interest
4 and penalties. The “wage” portion of each Individual Settlement Payment will be reduced by any
5 Employee Taxes. The Settlement Administrator shall issue the appropriate tax documents
6 associated with the Individual Settlement Payments, including an IRS Form W-2 for the amounts
7 allocated as “wages” and an IRS Form 1099 for the amounts allocated as “interest” or “penalties.”

8 3.12.1. Individual Settlement Payment Formula. After deducting the Class Counsel Fees
9 and Class Counsel Costs, the LWDA PAGA Allocation, Class Representative Service Awards,
10 PAGA Member Allocation, and Settlement Administration Costs, the remaining funds (the “Net
11 Settlement Amount”), shall be distributed as follows: The Settlement Administrator shall divide
12 the Net Settlement Amount by the total number of workweeks Class Members worked for
13 Defendant during the Class Period in order to determine the amount each Settlement Class
14 Member is entitled to for each workweek he or she worked for Defendant (the “Weekly
15 Amount”) during the Class Period. The Settlement Administrator shall multiply the Weekly
16 Amount by the estimated total number of workweeks that each Settlement Class Member worked
17 for Defendant during the Class Period. The product of each calculation represents the gross
18 Individual Settlement Payment for the respective Settlement Class Member. The Settlement
19 Administrator shall then deduct Employee Taxes attributable to wages to arrive at the net
20 Individual Settlement Payment for each respective Class Member. Within twenty-one (21)
21 calendar days after Preliminary Approval, Defendant shall provide the Settlement Administrator
22 with any information reasonably necessary to perform the calculation of number of workweeks
23 for each Class Member, and any other reasonably required information the Settlement
24 Administrator requests to perform the calculations required under this Settlement. Defendant
25 shall have no responsibility for deciding the validity of any Individual Settlement Payment or
26 any other payments made pursuant to this Settlement, shall have no involvement in or
27 responsibility for the determination or payment of Employee Taxes, and shall have no liability
28 for any errors made with respect to such Employee Taxes.

1 **3.13. PAGA Allocation & Related Release.** Out of the Maximum Settlement Amount
2 that is ultimately preliminarily approved, Defendant shall pay a total of Thirty Thousand Dollars
3 (\$30,000.00) to resolve the PAGA Claims (as defined below) of the Settlement Class (the “PAGA
4 Payment”). Of this amount, 75% (i.e. \$22,500.00) will be paid to the LWDA and 25% (i.e.
5 \$7,500.00) will be distributed on a pro rata per pay period basis to the PAGA Members who
6 worked at any time from January 15, 2023 through November 10, 2024, or the date the Court
7 grants preliminary approval of this settlement, whichever is earlier. Each PAGA Member’s
8 Individual PAGA Payment will be calculated based on the total number of pay periods he or she
9 worked during the PAGA Period. To establish the pay period value, the Settlement Administrator
10 will first determine the total number of pay periods worked by PAGA Members during the PAGA
11 Period. 25% of the PAGA Amount will then be divided by the total number of pay periods
12 worked by PAGA Members during the PAGA Period to determine the pay period value. The
13 PAGA Member Allocation represents the portion of civil penalties awarded directly under PAGA,
14 and shall be allocated as 100% penalties. The Settlement Administrator will report the PAGA
15 Payments on IRS 1099 Forms. PAGA Members will not be required to submit a claim form in
16 order to be issued a check for their share of the PAGA Payment. The PAGA Members will not
17 have the opportunity to opt out of, or object to, the PAGA Payment and release of the PAGA
18 Claims. Upon receipt of the PAGA Payment, PAGA Members shall be deemed to have released
19 the PAGA Claims as to civil and statutory penalties, and any other interest, liquidated damages,
20 attorney’s fees and costs related to the PAGA Claims.

21 3.13.1. Settlement Class Members are not eligible to receive any compensation
22 other than the Individual Settlement Payment (and PAGA Payment for PAGA Members), and
23 they may only receive an Individual Settlement Payment if they do not submit a valid and timely
24 Request for Exclusion to opt out of the Settlement. PAGA Members will receive their portion
25 of the PAGA Payment regardless of whether they submit a valid and timely Request for
26 Exclusion to opt out of the Settlement. Plaintiff, however, is also eligible to receive a Class
27 Representative Service Award.

28 3.13.2. No benefit, including but not limited to pension benefits, shall increase or

1 accrue as a result of any payment made pursuant to this Settlement.

2 3.13.3. If an Individual Settlement Payment is returned to the Settlement
3 Administrator as undeliverable and does not have a forwarding address, the Settlement
4 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace
5 search. If the returned Individual Settlement Payment has a forwarding address, or another
6 address is identified, the Settlement Administrator shall mail the Individual Settlement Payment
7 to the forwarding, or newly-identified, address. If an Individual Settlement Payment is returned
8 to the Settlement Administrator a second time as undeliverable, the Settlement Administrator
9 shall not attempt any further re-mailing of that Individual Settlement Payment, but shall hold
10 such Individual Settlement Payment until it becomes void. Any settlement checks that remain
11 uncashed one hundred eighty (180) calendar days after issuance shall be void (“Voided
12 Checks”).

13 3.13.4. Any settlement checks that are not cashed within one hundred eighty (180)
14 days after mailing shall thereafter be paid to the California State Controller in the name of the
15 Class Member who did not cash his or her check, and this shall result in no “unpaid residue”
16 subject to the requirements of California Code of Civil Procedure, section 384(b).

17 3.14. Class Representative Service Award. Defendant agrees not to oppose or object to
18 any application or motion by Plaintiff for a Class Representative Service Award, not to exceed
19 Ten Thousand Dollars (\$10,000.00) for Plaintiff, as consideration for Plaintiff’s time and effort
20 in bringing and prosecuting this matter. The Class Representative Service Award shall be paid
21 to Plaintiff from the Gross Settlement Amount no later than fifteen (15) calendar days after
22 Defendant funds the Gross Settlement Amount. The Settlement Administrator shall issue an IRS
23 Form 1099 — MISC to Plaintiff for his Class Representative Service Award. Plaintiff shall be
24 solely and legally responsible for payment of all applicable taxes on their Class Representative
25 Service Awards and shall hold Defendant harmless from any claim or liability for taxes, penalties,
26 or interest arising as a result of his Class Representative Service Award. The Class Representative
27 Service Award shall be in addition to Plaintiff’s Individual Settlement Payment as a Settlement
28 Class Member. If the Court awards lesser amounts than the Class Representative Service Award

1 requested, then any portion of the requested amount not awarded to Plaintiff shall be added to the
2 Net Settlement Amount. Plaintiff shall not have the right to revoke this agreement to the
3 Settlement on the grounds the Court did not approve any or all of his request for a Class
4 Representative Service Award; it shall remain binding. Any adjustments made by the Court to
5 the requested Class Representative Service Award shall not be deemed a material modification
6 of this Agreement.

7 3.15. Class Counsel Fees and Costs. Defendant agree not to oppose or object to any
8 application or motion by Class Counsel for Class Counsel Fees in the amount of One Third (1/3)
9 of the Gross Settlement Amount or Ninety Four Thousand Dollars (\$94,000.00) and Class
10 Counsel Costs not to exceed Fourteen Thousand Dollars (\$14,000.00) from the Gross Settlement
11 Amount. The Class Counsel Fees and Class Counsel Costs shall be paid no later than fifteen (15)
12 calendar days after the Defendant fund the Gross Settlement Amount. Class Counsel shall be
13 solely and legally responsible to pay all applicable taxes on the payments made pursuant to this
14 paragraph. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class
15 Counsel for the payments made pursuant to this paragraph. This Settlement is not contingent upon
16 the Court awarding Class Counsel any particular amount in attorneys' fees and costs. Any amount
17 requested by Class Counsel for the Class Counsel Fees and Class Counsel Costs and not granted
18 by the Court shall become part of the Net Settlement Amount.

19 3.16. PAGA Allocation. Subject to Court approval, the Parties shall allocate a total of
20 Thirty Thousand Dollars (\$30,000.00) from the Gross Settlement Amount for the compromise of
21 claims brought under the Labor Code Private Attorneys General Act of 2004 (the "PAGA
22 Allocation").

23 3.17. LWDA PAGA Allocation. The LWDA PAGA Allocation shall be Twenty Two
24 Thousand Five Hundred Dollars (\$22,500.00), representing 75% of the PAGA Allocation, and
25 shall be paid to California's Labor and Workforce Development Agency ("LWDA") from the
26 Gross Settlement Amount by the Settlement Administrator no later than fifteen (15) calendar days
27 after Defendants fund the Gross Settlement Amount. The remaining Seven Thousand Five
28 Hundred Dollars (\$7,500.00), representing 25% of the PAGA Allocation, shall be distributed to

1 PAGA Members.

2 3.18. Defendant's Option to Terminate Settlement. If, after the Response Deadline and
3 before the Final Approval Hearing, five percent (5%) or more of the number of Settlement Class
4 Members submit timely and valid Requests for Exclusion from the Settlement, Defendant shall
5 have, in its sole discretion, the option to terminate this Settlement. Defendant shall exercise their
6 option to terminate, if they wish, prior to the Final Approval Hearing, provided the Settlement
7 Administrator has provided Defendant the number and percentage of valid and timely Requests
8 for Exclusion no later than sixteen (16) court days prior to the Final Approval Hearing. If
9 Defendant decides to void the Settlement, then the Settlement and conditional class certification
10 shall be considered void, and neither the Settlement, conditional class certification, nor any of the
11 related negotiations or proceedings, shall be of any force or effect, and the Parties shall stand in
12 the same position, without prejudice, as if this Settlement had been neither entered into nor filed
13 with the Court. Should Defendant void the Settlement under this paragraph, Defendant shall be
14 responsible for all Settlement Administration Costs incurred by the Settlement Administrator
15 through the date that Defendant notifies the Settlement Administrator that they are exercising the
16 option to terminate the Settlement.

17 3.19. Settlement Administration Costs. The Settlement Administrator shall be paid for
18 the costs of administration of the Settlement from the Gross Settlement Amount. Such costs of
19 administration are not to exceed Eight Thousand Dollars and Zero Cents (\$8,000.00), unless the
20 court approves a higher amount. No fewer than twenty (20) days prior to the Final Approval
21 Hearing, the Settlement Administrator shall provide the Parties with a statement detailing the
22 costs of administration. The Settlement Administrator, on Defendants' behalf, shall have the
23 authority and obligation to make payments, credits and disbursements, including payments and
24 credits in the manner set forth in this Settlement, to Settlement Class Members, calculated in
25 accordance with the methodology set out in this Settlement and orders of the Court. The Parties
26 agree to cooperate in the administration of the Settlement and to make all reasonable efforts to
27 control and minimize the costs and expenses incurred in administration of the Settlement. The
28 Parties each represent they do not have any financial interest in the Settlement Administrator or

1 otherwise have a relationship with the Settlement Administrator that could create a conflict of
2 interest. The Settlement Administrator shall be responsible for: processing and mailing all
3 payments described in the Settlement to the Plaintiff, Class Counsel, Settlement Class Members
4 and Verified Settlement Class Members, the LWDA, and tax authorities; printing and mailing the
5 Notice Packets to the Settlement Class Members as called for in this Settlement and ordered by
6 the Court; receiving and reporting Notice of Objections and Requests for Exclusion submitted by
7 Class Members; providing declaration(s) as necessary in support of preliminary and/or final
8 approval of this Settlement; and other tasks as the Parties mutually agree or the Court orders the
9 Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely
10 apprised of the performance of all Settlement Administrator responsibilities. Any legally
11 mandated tax reports, tax forms, tax filings, or other tax documents required by administration of
12 this Settlement shall be prepared by the Settlement Administrator. Any expenses incurred in
13 connection with such preparation shall be Settlement Administration Costs. The Settlement
14 Administrator shall be paid the Settlement Administration Costs no later than fifteen (15) calendar
15 days after the Defendants fund the Gross Settlement Amount.

16 3.20. Settlement Administrator's Declaration. Not later than 5 days before the date by which
17 Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator
18 will provide to Class Counsel and Defense Counsel a signed declaration suitable for filing in
19 Court attesting to its due diligence and compliance with all of its obligations under this
20 Agreement, including, but not limited to, its mailing of the Class Notice, the Class Notices
21 returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the
22 total number of Requests for Exclusion from Settlement it received (both valid or invalid), and
23 the number of written objections and attach the Exclusion List. The Administrator will
24 supplement its declaration as needed or requested by the Parties and/or the Court. Class
25 Counsel is responsible for filing the Administrator's declaration(s) in Court.

26 3.21. Final Report by Settlement Administrator. Within 10 days after the Settlement
27 Administrator disburses all funds in the Gross Settlement Amount, the Settlement
28

1 Administrator will provide Class Counsel and Defense Counsel with a final report detailing its
2 disbursements of all payments made under this Agreement. At least 7 days before any deadline
3 set by the Court, the Settlement Administrator will prepare, and submit to Class Counsel and
4 Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement
5 of all payments required under this Agreement. Class Counsel is responsible for filing the
6 Administrator's declaration in Court.

7 3.22. Final Approval Hearing. At a reasonable time following the Response Deadline,
8 the Court shall hold the Final Approval Hearing, where objections, if any, may be heard, and the
9 Court shall determine amounts properly payable for (i) the Class Counsel Fees, (ii) the Class
10 Counsel Costs, (iii) the Class Representative Service Award, (iv) the LWDA PAGA Allocation;
11 and (v) the Settlement Administration Costs.

12 3.23. Entry of Final Judgment. If the Court approves this Settlement at the Final
13 Approval Hearing, the Parties shall request that the Court enter the Final Judgment after the Gross
14 Settlement Amount has been fully funded, with the Court retaining jurisdiction over the Parties
15 to enforce the terms of the judgment. If the Court grants Final Approval to the Settlement, notice
16 of Final Approval shall be posted on the Settlement Administrator's website, at
17 <https://www.simpluris.com/>.

18 3.24. No Effect on Employee Benefits. Amounts paid to Plaintiff or other Settlement
19 Class Members pursuant to this Settlement will not count as earnings or compensation for
20 purposes of any benefits (e.g., pensions or retirement plans) sponsored by Defendants. It is
21 expressly understood and agreed that the receipt of Individual Settlement Payments and/or PAGA
22 Payments shall not entitle any Settlement Class Member to additional compensation or benefits
23 under any collective bargaining agreement or under any bonus, contest, or other compensation or
24 benefit plan or agreement in place during the period covered by the Settlement, nor shall it entitle
25 any Settlement Class Member to any increased pension and/or retirement, or other deferred
26 compensation benefits. It is the intent of the Parties that payments from Net Settlement Amount
27 provided for in this Settlement are the sole payments to be made by Defendants to Settlement
28 Class Members in connection with this Settlement, with the sole exception of Plaintiff's Class

1 Representative Service Award, and that the Settlement Class Members are not entitled to any new
2 or additional compensation or benefits as a result of having received funds from the Net
3 Settlement Amount. Furthermore, the receipt of Individual Settlement Payments by Settlement
4 Class Members shall not, and does not, by itself establish any general, special, or joint
5 employment relationship between and among the Settlement Class Member(s) and Defendant.

6 3.25. Nullification of Settlement. In the event: (i) the Court does not enter the
7 Preliminary Approval Order as specified herein; (ii) the Court does not grant final approval of the
8 Settlement as provided herein; (iii) the Court does not enter a Final Judgment as provided herein;
9 or (iv) the Settlement does not become final for any other reason, this Settlement shall be null and
10 void and any order or judgment entered by the Court in furtherance of this Settlement shall be
11 treated as void from the beginning. In such a case, the Parties and any funds to be awarded under
12 this Settlement shall be returned to their respective statuses as of the date and time immediately
13 prior to the execution of this Settlement, and the Parties shall proceed in all respects as if this
14 Settlement had not been executed. In the event an appeal is filed from the Court's Final Judgment,
15 or any other appellate review is sought, administration of the Settlement shall be stayed pending
16 final resolution of the appeal or other appellate review.

17 3.26. No Admission by the Parties. Defendant denies any and all claims alleged in this
18 Action and denies all wrongdoing whatsoever. This Settlement is not a concession or admission,
19 and shall not be used against Defendant as an admission or indication, with respect to any claim,
20 of any fault, concession, or omission by Defendant. Neither this Settlement, nor any of its terms
21 and conditions, nor any of the negotiations connected with it, is a concession or admission, and
22 none shall be used against Defendant as an admission or indication with respect to any claim of
23 any fault, concession, or omission by Defendant, or that class certification is proper under the
24 standard applied to contested certification motions. The Parties stipulate and agree to the
25 certification of the Settlement for settlement purposes only. The Parties further agree that this
26 Settlement will not be admissible in this or any other proceeding as evidence that either: (i) a class
27 action should be certified or (ii) Defendant are liable to Plaintiff or any Class Member, other than
28 according to the terms of this Settlement.

1 3.27. Dispute Resolution. Except as otherwise set forth herein, all disputes concerning
2 the interpretation, calculation or payment of settlement claims, or other disputes regarding
3 compliance with this Settlement shall be resolved as follows:

4 3.27.1. If Plaintiff or Class Counsel, on behalf of Plaintiff or any Settlement Class
5 Members, or Defendant at any time believe that the other Party or Parties have breached or acted
6 contrary to the Settlement, that Party shall notify the other Party or Parties in writing of the alleged
7 violation.

8 3.27.2. Upon receiving notice of the alleged violation or dispute, the responding
9 Party shall have ten (10) days to correct the alleged violation and/or respond to the initiating Party
10 with the reasons why the Party disputes all or part of the allegation.

11 3.27.3. If the response does not address the alleged violation to the initiating
12 Party's satisfaction, the Parties shall negotiate in good faith for up to ten (10) days to resolve their
13 differences.

14 3.27.4. Prior to the Court's involvement pursuant to paragraph 3.35, if the Parties
15 still cannot resolve a dispute, the Parties shall utilize the services of the Mark LeHocky, Esq.
16 (Mediator) in a good-faith attempt to mediate and resolve the dispute.

17 3.27.5. If the Parties are unable to resolve their differences after twenty (20) days,
18 either Party may file an appropriate motion for enforcement with the Court.

19 3.28. Exhibits and Headings. The terms of this Settlement include the terms set forth in
20 Exhibits A and B, which are attached to this Settlement and incorporated by this reference as
21 though fully set forth in this paragraph. Any Exhibits to this Settlement are an integral part of the
22 Settlement. The descriptive headings of any paragraphs or sections of this Settlement are inserted
23 for convenience of reference only and do not constitute a part of this Settlement.

24 3.29. Interim Stay of Proceedings. The Parties agree that upon the execution of this
25 Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The
26 Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330
27 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this
28 settlement process.

1 3.30. Amendment or Modification. This Settlement may be amended or modified only
2 by a written instrument signed by all the Parties and counsel for all Parties or their successors-in-
3 interest.

4 3.31. Entire Settlement. This Settlement and any attached Exhibits constitute the entire
5 agreement among these Parties, and no oral or written representations, warranties, or inducements
6 have been made to any Party concerning this Settlement or its exhibits, other than the
7 representations, warranties, and covenants contained and memorialized in the Settlement and its
8 exhibits. No other prior or contemporaneous written or oral agreements may be deemed binding
9 on the Parties.

10 3.32. Authorization to Enter into Settlement. Counsel for all Parties warrant and
11 represent they are expressly authorized by the Parties whom they represent to negotiate this
12 Settlement and to take all appropriate actions required or permitted to be taken by such Parties
13 pursuant to this Settlement to effectuate its terms, and to execute any other documents required
14 to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each
15 other and use their best efforts to affect the implementation of the Settlement. In the event the
16 Parties are unable to reach agreement on the form or content of any document needed to
17 implement the Settlement, or on any supplemental provisions that may become necessary to
18 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve
19 such disagreement. The person signing this Settlement on behalf of Defendants represents and
20 warrants that he or she is authorized to sign this Settlement on behalf of Defendants. Plaintiff
21 represents and warrants they are authorized to sign this Settlement and that they have not assigned
22 any claim, or part of a claim, covered by this Settlement to a third-party.

23 3.33. No Prior Assignments. The Parties and their counsel represent, covenant, and
24 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported
25 to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
26 action, cause of action or right herein released and discharged.

27 3.34. California Law Governs. All terms of this Settlement and the exhibits hereto shall
28 be governed by and interpreted according to the laws of the State of California.

1 3.35. This Settlement is Fair, Adequate and Reasonable. The Parties believe this
2 Settlement is a fair, adequate, and reasonable settlement of the Action and have arrived at this
3 Settlement after extensive arms-length negotiations, taking into account all relevant factors,
4 present and potential.

5 3.36. Jurisdiction of the Court. In accordance with California Rule of Court 3.769(h),
6 the Parties agree that the Court shall retain jurisdiction with respect to the interpretation,
7 implementation, and enforcement of the terms of this Settlement and all orders and judgments
8 entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction
9 of the Court for purposes of interpreting, implementing, and enforcing this Settlement and all
10 orders and judgments entered in connection therewith.

11 1.1. Invalidity of Any Provision. Before declaring any provision of this Settlement
12 invalid, the Court shall first attempt to construe the provision to be valid to the fullest extent
13 possible, consistent with applicable precedents. In the event that one or more of the provisions
14 contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in
15 any respect, such invalidity, illegality, or unenforceability shall in no way effect any other
16 provision if Defense Counsel and Class Counsel, on behalf of the Parties and the Settlement
17 Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable
18 provision had never been included in this Agreement.

19 3.37. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
20 conditional class certification for purposes of this Settlement only.

21 3.38. Cooperation. The Parties agree to cooperate fully with one another to accomplish
22 and implement the terms of this Settlement. Such cooperation shall include, but not be limited
23 to, execution of such other documents and the taking of such other action as may be reasonably
24 necessary to fulfill the terms of this Settlement. The Parties to this Settlement shall use their best
25 efforts, including all efforts contemplated by this Settlement and any other efforts that may
26 become necessary by Court order, or otherwise, to effectuate this Settlement and its terms. If the
27 Court does not grant Final Approval or conditions Final Approval on any material change to the
28 Settlement (including, but not limited to, the scope of release to be granted by Class Members),

1 the Parties will expeditiously work together in good faith to address the Court's concerns by
2 revising the Agreement as necessary to obtain Final Approval. The Court's decision to award
3 less than the amounts requested for the Class Representative Service Payment, the Class Counsel
4 Fees Payment, the Class Counsel Litigation Expenses Payment, and/or the Administrator
5 Expenses Payment shall not constitute a material modification to the Agreement within the
6 meaning of this paragraph

7 3.39. Publicity. Plaintiff agrees not to disclose or publicize the Settlement Agreement
8 contemplated herein, the facts of the Settlement Agreement, its terms or contents, or the
9 negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly,
10 to any person or entity, except to Settlement Class members and as shall be contractually required
11 to effectuate the terms of the Settlement Agreement as set forth herein. However, for the limited
12 purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class
13 Counsel may disclose the names of the Parties in this Action, the venue/case number of this
14 Action, and a general description of the Action, to a court in a declaration by Class Counsel. Class
15 Counsel may also include a general description of the Settlement on their respective websites, but
16 may not include the name(s) of any of the Parties, including the Defendants, or any of the Released
17 Parties, or the case name or case number of the Action.

18 3.40. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
19 and conditions of this Settlement. Accordingly, this Settlement will not be construed more strictly
20 against one party than another merely by virtue of the fact that it may have been prepared by
21 counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations
22 between the Parties, all Parties have contributed to the preparation of this Settlement.

23 3.41. Representation by Counsel. The Parties acknowledge that they have been
24 represented by counsel throughout all negotiations that preceded the execution of this Settlement,
25 and that this Settlement has been executed with the consent and advice of counsel, and reviewed
26 in full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the
27 Settlement.

28 3.42. All Terms Subject to Final Court Approval. All amounts and procedures described

1 in this Stipulation are subject to final Court approval.

2 3.43. Notices. Unless otherwise specifically provided, all notices, demands or other
3 communications in connection with this Settlement shall be: (1) in writing; (2) deemed given on
4 the third business day after mailing; and (3) sent via United States registered or certified mail,
5 return receipt requested, addressed as follows:

6 **To Plaintiff:**

7 Alexei Kuchinsky, Esq.
8 KUCHINSKY LAW OFFICE, P.C.
9 220 Montgomery Street, Suite 2100
10 San Francisco, CA 94104
11 Telephone: (628) 200-0902
12 Facsimile: (628) 200-0907

To Defendant:

Timothy B. Nelson
Mayra Sandoval
MEDINA McKELVEY LLP
925 Highland Pointe Dr
Suite 300
Roseville, CA 95678
Telephone: (916) 960-2211

13
14 3.44. Execution by Settlement Class Members. It is agreed that it is impossible or
15 impractical to have each Settlement Class Member execute this Settlement. The Notice of
16 Settlement will advise all Settlement Class Members of the binding nature of the release and such
17 shall have the same force and effect as if each Settlement Class Member executed this Settlement.

18 3.45. Execution by Plaintiff and Defendants. Plaintiff and Defendant, by signing this
19 Settlement, are bound by the terms herein.

20 3.46. Binding Agreement. The Parties warrant that they understand and have full
21 authority to enter into this Settlement, and further intend that this Settlement will be fully
22 enforceable and binding on all Parties, and agree that it will be admissible and subject to
23 disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality
24 provisions that otherwise might apply under federal or state law. In the event that a party is
25 required to enforce any of the terms of this Agreement, the prevailing party shall be entitled to
26 recover its reasonable attorney's fees and costs incurred in connection with such enforcement.

27 3.47. Counterparts. This Settlement shall become effective upon its execution by all
28

1 of the undersigned. Plaintiff and Defendant may execute this Settlement in counterparts, and
2 execution of counterparts shall have the same force and effect as if each had signed the same
3 instrument. Copies of the executed Settlement shall be effective for all purposes as though the
4 signatures contained therein were original signatures.

5 3.48. The Parties, Class Counsel and Defendant's Counsel represent that they are not
6 aware of any other pending matter or action asserting claims that will be extinguished or
7 affected by the Settlement.
8

9 Dated: 12/10/2024

PLAINTIFF RAFAEL CRUZ

10 
11 _____
12 Rafael Cruz

13 Dated: _____

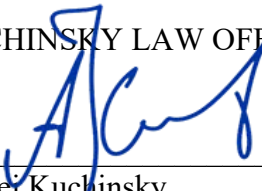
DEFENDANT ACTION TOWING AND
ROAD SERVICE, INC.

16 By: _____

17 APPROVED AS TO FORM ONLY:
18

19 Dated: 12/09/2024

KUCHINSKY LAW OFFICE, P.C.

20 
21 _____
22 Alexei Kuchinsky
23 Attorneys for Plaintiff Rafael Cruz

24 Dated: _____

MEDINA McKELVEY LLP

25 _____
26 Timothy B. Nelson
27 Mayra Sandoval
28 Attorneys for Defendant Action Towing
and Road Service, Inc.

of the undersigned. Plaintiff and Defendant may execute this Settlement in counterparts, and execution of counterparts shall have the same force and effect as if each had signed the same instrument. Copies of the executed Settlement shall be effective for all purposes as though the signatures contained therein were original signatures.

3.48. The Parties, Class Counsel and Defendant's 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.

Dated: _____

PLAINTIFF RAFAEL CRUZ

Rafael Cruz

Dated: 12/10/2024

DEFENDANT ACTION TOWING AND
ROAD SERVICE, INC.

Signed by:
Brian Banks

By: 94890B3763EC4A1...

APPROVED AS TO FORM ONLY:

Dated: _____

KUCHINSKY LAW OFFICE, P.C.

Alexei Kuchinsky
Attorneys for Plaintiff Rafael Cruz

Dated: December 11, 2024

MEDINA McKELVEY LLP

[Signature]

Timothy B. Nelson
Mayra Sandoval
Attorneys for Defendant Action Towing
and Road Service, Inc.