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Sued as Superior Talent Resources, Inc.*

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

19

20

21 ALEJANDRO ZAMARRIPA, individually,
and on behalf of all others similarly situated,

22

23 Plaintiff,

24

v.

25 SUPERIOR TALENT RESOURCES, INC., a
corporation; and DOES 1 through 50,
26 inclusive,

27

Defendants.

28

CASE NO.: 30-2019-01060339-CU-OE-CXC

**CLASS ACTION SETTLEMENT
AGREEMENT AND RELEASE**

1 This Class Action Settlement and Release (“Settlement Agreement”) is entered into as of the
2 last date written below by and between Plaintiff Alejandro Zamarripa (“Plaintiff”), on behalf of
3 himself and the Class, on the one hand, and Defendant Acara Solutions, Inc. (“Acara” or
4 “Defendant”), sued as “Superior Talent Resources, Inc.” on the other hand. Plaintiff and Defendant
5 are collectively referred to herein as “Parties” and individually referred to herein as “Party.”

6 In consideration of the mutual covenants, promises, and agreements set forth herein, the
7 Parties agree that, pursuant to the terms and conditions set forth herein, which are subject to approval
8 of the Court, this Action and the Released Claims shall be settled and compromised as between
9 Plaintiff and the Class on the one hand and Defendant on the other hand.

10 DEFINITIONS

- 11 1. “Acara” means Acara Solutions, Inc., sued as “Superior Talent Resources, Inc.”
- 12 2. “Action” means *Zamarripa v. Superior Talent Resources, Inc.*, Superior Court of the
13 State of California for the County of Orange, Case No. 30-2019-01060339-CU-OE-CXC.
- 14 3. “Class” means all non-exempt employees of Defendant who worked for Defendant
15 in California during the Class Period.
- 16 4. “Class Counsel” means the Wand Law Firm, P.C. and the Law Office of Scott E.
17 Wheeler.
- 18 5. “Class Counsel Award” means attorneys’ fees for Class Counsel’s litigation and
19 resolution of this Action and Class Counsel’s expenses and costs incurred in connection with this
20 Action.
- 21 6. “Class Information” means information regarding Class Members that Defendant
22 will in good faith compile from its records and provide to the Settlement Administrator. It shall be
23 formatted as a Microsoft Excel spreadsheet or Microsoft Word Document and shall include: each
24 Class Member’s full name; social security number; last known address; last known telephone
25 number; and number of Compensable Work Weeks.
- 26 7. “Class Member” means each person who is a member of the Class defined above and
27 who is eligible to participate in this Settlement.

1 8. “Class Period” means the time period from March 29, 2015 up to and including July
2 29, 2020.

3 9. “Class Representative Service Award” means the amount that the Court authorizes
4 to be paid to Plaintiff, in addition to Plaintiff’s Individual Settlement Payment, in recognition of,
5 *inter alia*, Plaintiff’s efforts and risks in assisting with the prosecution of the Action and in return
6 for executing a general release with Defendant.

7 10. “Compensable Work Week” or “Compensable Work Weeks” mean a reasonable
8 estimate of weeks worked (which are equivalent to pay periods) by each Class Member individually
9 and by all Class Members collectively during the Class Period based on Defendant’s records and
10 used as a value to calculate Individual Settlement Payments. The number of Compensable Work
11 Weeks for each Class Member will be determined by adding all the calendar days within the
12 inclusive dates of employment for the employee and dividing that number by seven. Any partial
13 workweek will be expressed as a percentage of a full workweek.

14 11. “Court” means the Superior Court for the County of Orange, State of California.

15 12. “Defendant” means Acara Solutions, Inc., sued as “Superior Talent Resources, Inc.”

16 13. “Effective Date” means the date on which the Superior Court’s Final Approval Order
17 and Judgment becomes final. The Superior Court’s Final Approval Order and Judgment “becomes
18 final” upon the latter of: (a) if there is no Objection to the Settlement, or if there is an Objection but
19 it is withdrawn, then, the date that the Final Approval Order and Judgment is entered by the Court;
20 (b) if there is an Objection to the Settlement that is not withdrawn, but no appeal is commenced
21 thereafter, then, sixty-five (65) calendar days following the date that the Final Approval Order and
22 Judgment is entered by the Court; or (c) if there is an Objection to the Settlement that is not
23 withdrawn, and any appeal, writ, or other appellate proceeding opposing the Settlement has been
24 filed within sixty-five (65) calendar days following the date that the Final Approval Order and
25 Judgment is entered by the Court, then when any such appeal, writ, or other appellate proceeding
26 opposing the validity of the Settlement has been resolved finally and conclusively with no right to
27 pursue further remedies or relief.

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1 14. “Final Approval Order and Judgment” means an order and judgment by the Court
2 that finally approves this Settlement and enters a judgment in favor of Plaintiff.

3 15. “Gross Settlement Amount” means the maximum amount which Defendant is
4 obligated to pay under this Settlement Agreement, which is Seven Hundred and Eighty Thousand
5 Dollars (\$780,000.00). This is a non-reversionary Settlement in which Defendant is required to pay
6 the entire Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to
7 Defendant under any circumstances.

8 16. “Individual Settlement Payment” means the amount payable from the Net Settlement
9 Amount to each Settlement Class Member.

10 17. “LWDA” means the California Labor and Workforce Development Agency.

11 18. “Net Settlement Amount” means the Gross Settlement Amount, less the Class
12 Counsel Award, Class Representative Service Award, payment to the LWDA for PAGA penalties,
13 and Settlement Administration Costs.

14 19. “Notice of Class Settlement” means the notice, substantially in the form attached
15 hereto as **Exhibit 1**, which the Settlement Administrator will mail to each Class Member, and which
16 explains, *inter alia*, the terms of this Settlement Agreement, the settlement process, and each Class
17 Member’s estimated Individual Settlement Payment.

18 20. “Operative Complaint” means the First Amended Complaint which Plaintiff filed,
19 with Defendant’s express approval, on June 12, 2020.

20 21. “Objection” means a letter or other written communication submitted by a Class
21 Member to the Settlement Administrator that contains a clear statement by the Class Member that
22 he or she is objecting to any of the terms of the Settlement.

23 22. “Parties” means Plaintiff and Defendant, collectively, and “Party” means either
24 Plaintiff or Defendant, individually.

25 23. “Payment Ratio” means the respective Compensable Work Weeks for each
26 Settlement Class Member divided by the total Compensable Work Weeks for all Settlement Class
27 Members.

28 24. “Plaintiff” means Plaintiff Alejandro Zamarripa.

1 25. “Preliminary Approval Date” means the date upon which the Court filed an order
2 substantially in the form attached hereto as **Exhibit 2**, and which grants preliminary approval of the
3 Settlement.

4 26. “Request for Exclusion” means a letter or other written communication submitted by
5 a Class Member to the Settlement Administrator that contains a clear statement by the Class Member
6 that he or she is electing to be excluded from the Settlement.

7 27. “Released Claims by Plaintiff” means: As of the Effective Date, Plaintiff, as a Class
8 Member, agrees to the Release of Claims by Settlement Class Members, which is set forth in
9 paragraph 28 below. In addition to Release of Claims by Settlement Class Members, Plaintiff agrees
10 to a general release, which includes any unknown claims that he did not know or suspect to exist in
11 his favor at the time of the general release, which, if known, might have affected his Settlement
12 with, and release of, the Released Parties. Plaintiff for himself and for his heirs, executors,
13 administrators, successors and assigns hereby releases, discharges and promises not to sue the
14 Released Parties as to any and all claims, demands, causes of action, fees and liabilities, claims for
15 money damages, or any other type of relief of any nature whatsoever, whether known or unknown,
16 whether statutory or common law, which Plaintiff ever had, now has or may hereafter have against
17 the Released Parties by reason of any actual or alleged act, omission, transaction, practice, conduct,
18 occurrence, or other matter up to and including the Effective Date of this Agreement, as defined in
19 Paragraph 13 of this Settlement. Without limiting the generality of the foregoing or characterizing
20 the nature of Plaintiff’s claims, this Settlement releases the Released Parties from any claim by
21 Plaintiff, on an individual basis: (i) for wages, including overtime wages, bonuses, commissions,
22 vacation pay, sick pay, severance, back pay, front pay, or compensation of any kind including any
23 such claim arising under federal or California state law; (ii) for civil penalties pursuant to any
24 provision of the California Labor Code and/or the Industrial Welfare Commission’s Wage Orders;
25 (iii) for alleged public policy violation, discrimination, harassment, or retaliation, under Title VII of
26 the Civil Rights Act of 1964 (42 U.S.C. §§ 2000e et seq.), the Civil Rights Act of 1866 (42 U.S.C.
27 § 1981), the Americans With Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), the
28 Equal Pay Act, the Rehabilitation Act, the California Fair Employment and Housing Act (Cal. Gov’t

1 Code §§ 12940 et seq.), the California Labor Code and any analogous laws of the State of California,
2 the public policies of California, or any other federal, state, or local statute, ordinance or common
3 law which forbids discrimination, harassment, or retaliation in any aspect of employment, including
4 retaliation for engaging in “whistle blowing” activity or for filing a workers’ compensation claim;
5 (iv) for negligence, breach of an express or implied employment contract, collective bargaining
6 agreement, violation of public policy, wrongful discharge, constructive termination, discriminatory
7 discharge, conspiracy, fraud, false imprisonment, intentional or negligent infliction of emotional
8 distress, mental or physical injury, tortious interference with contract or prospective economic
9 advantage, or defamation; (v) under any other federal, state, or local statute or common law that
10 may apply in the context of his employment with Acara, including, but not limited to, the Family
11 and Medical Leave Act, the California Family Rights Act, the Employee Retirement Income
12 Security Act, the False Claims Act, and the Sarbanes-Oxley Act of 2002; and (vi) any and all claims
13 for attorney’s fees, costs, and disbursements which Plaintiff ever had, now has, or hereafter can,
14 shall or may have against the Released Parties for, upon or by reason of any act, omission,
15 transaction or occurrence up to and including the Effective Date of this Settlement. Notwithstanding
16 the foregoing, nothing in this Settlement shall affect claims that cannot be released as a matter of
17 law. With respect to the general release, Plaintiff stipulates and agrees that, upon the Effective Date,
18 he shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by
19 law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other
20 similar provision under federal or state law as to the generally released claims, which provides:

21 “A general release does not extend to claims which the creditor or releasing party
22 does not know or suspect to exist in his or her favor at the time of executing the
23 release, and that if known by him or her would have materially affected his or her
24 settlement with the debtor or released party.”

25 Plaintiff may hereafter discover facts in addition to or different from those now known or
26 believed to be true with respect to the subject matter of the general release, but upon the Effective
27 Date, he shall be deemed to have fully, finally, and forever settled and released any and all of the
28 claims released pursuant to the general release, whether known or unknown, suspected or

1 unsuspected, contingent or non-contingent, which now exist, or heretofore have existed upon any
2 theory of law or equity.

3 The general release applies to Plaintiff only. It does not apply to the Released Claims by
4 Settlement Class Members, which is set forth in paragraph 28 below.

5 28. "Released Claims by Settlement Class Members" means: As of the Effective Date,
6 Settlement Class Members shall fully and finally release and discharge Released Parties, from
7 March 29, 2015 through July 29, 2020 (the Class Period), from any and all claims, debts, liabilities,
8 demands, obligations, guarantees, costs, expenses, attorneys' fees, damages, or causes of action
9 contingent or accrued for, that are pleaded, or that could have been pleaded, based on the facts and
10 claims alleged in the Operative Complaint, including any claims for: (a) failure to maintain required
11 records, California Labor Code §§ 226, 1174; (b) failure to furnish accurate, itemized wage
12 statements, California Labor Code §§ 226, 1174; (c) violation of the California Investigative
13 Consumer Reporting Agencies Act, California Civil Code § 1786 *et seq.*; (d) violation of the
14 California Consumer Credit Reporting Agencies Act, California Civil Code § 1785.1 *et seq.*; (e)
15 violation of the California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.*; (f)
16 violation of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*; and (g) and violation of
17 California Private Attorneys' General Act, California Labor Code § 2699 *et seq.*, predicated on any
18 of the violations of the California Labor Code and applicable IWC Wage Order alleged in the
19 Operative Complaint.

20 29. "Released Parties" collectively mean: (i) Defendant; (ii) Defendant's respective past,
21 present and future heirs, executors, administrators, parents, subsidiaries and affiliates, successors
22 and assigns; (iii) the past, present and future shareholders, managers, officers, partners, members,
23 agents, employees, attorneys, insurers, predecessors, successors and assigns of any of the foregoing;
24 and (iv) any individual or entity which could be jointly liable with any of the foregoing.

25 30. "Response Deadline" means forty-five (45) days after the postmark date of the
26 Notice of Class Settlement that the Settlement Administrator shall mail to Class Members, and the
27 last date on which Class Members may: (a) submit a Request for Exclusion; or (b) submit an
28 Objection to the Settlement.

1 exchanged information, class data, and theories of the case. The Parties have also investigated the
2 law as applied to the facts of Plaintiff's claims and Defendant's potential defenses thereto.

3 37. WHEREAS, The Parties participated in a private mediation session with Steven J.
4 Rottman, on January 7, 2020. On January 24, 2020, the Parties accepted a proposal from the
5 mediator regarding the material terms for a proposed class action settlement that would fully resolve
6 this matter.

7 38. WHEREAS, Plaintiff and Class Counsel recognize the expense and length of
8 continued proceedings necessary to litigate Plaintiff's claims through trial and any possible appeals.
9 Plaintiff has also taken into account the uncertainty and risk of the outcome of further litigation, and
10 the difficulties and delays inherent in such litigation. Plaintiff and Class Counsel are also aware of
11 the burdens of proof necessary to establish liability for the claims asserted in the Action, both
12 generally and in response to Defendant's defenses thereto, and the difficulties in establishing
13 damages for the Class. Plaintiff and Class Counsel have also taken into account Defendant's
14 agreement to enter into a settlement that confers substantial relief upon the members of the Class.
15 Based on the foregoing, Plaintiff and Class Counsel have determined that the Settlement set forth in
16 this Settlement Agreement is a fair, adequate, and a reasonable settlement, and is in the best interests
17 of the Class.

18 39. WHEREAS, Defendant has concluded that any further defense of this litigation
19 would be protracted and expensive for all Parties. Substantial amounts of Defendant's time, energy,
20 and resources have been and, unless this Settlement is completed, will continue to be devoted to the
21 defense of the claims asserted by Plaintiff. Defendant has also taken into account the risks of further
22 litigation in reaching its decision to enter into this Settlement. Even though Defendant continues to
23 contend that it is not liable for any of the claims alleged by Plaintiff in this Action, Defendant has
24 agreed, nonetheless, to settle in the manner and upon the terms set forth in this Settlement
25 Agreement to put to rest the claims in this Action. As to the Released Claims, Defendant denies
26 and continues to deny liability as to each of those claims.

27 40. WHEREAS, pursuant to a stipulation between the parties, on June 12, 2020, Plaintiff
28 filed a First Amended Complaint against Defendant. The First Amended Complaint shall be the

1 Operative Complaint for the purposes of this Settlement. On June 26, 2020, Defendant filed an
2 Answer to the First Amended Complaint.

3 41. WHEREAS, as of July 1, 2020, Defendant estimates the number of members in the
4 Class to be 10,012, with a total number of 342,261 Compensable Work Weeks.

5 **STIPULATION AND AGREEMENT**

6 42. NOW, THEREFORE, for good and valuable consideration, the sufficiency of which
7 is hereby acknowledged, and in consideration of the mutual covenants, promises, and agreements
8 set forth herein, the Parties agree, subject to the Court's approval, as follows:

9 43. Incorporation of Recitals. The recitals above are hereby incorporated by reference
10 as contractual terms of this Agreement.

11 44. Binding Settlement. It is agreed by and among Plaintiff and Defendant that this
12 Settlement shall bind the Plaintiff, Settlement Class Members, and Defendant, subject to the terms
13 and conditions hereof.

14 45. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
15 the "acknowledging party" and each Party to this Agreement other than the acknowledging party,
16 an "other party") acknowledges and agrees that (1) no provision of this Agreement, and no written
17 communication or disclosure between or among the Parties or their attorneys and other advisers, is
18 or was intended to be, nor shall any such communication or disclosure constitute or be construed or
19 be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230
20 (31 CFR Part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her,
21 or its own, independent legal and tax counsel for advice (including tax advice) in connection with
22 this Agreement, (b) has not entered into this Agreement based upon the recommendation of any
23 other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon any
24 communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty
25 that may be imposed on the acknowledging party; and (3) no attorney or adviser to any other party
26 has imposed any limitation that protects the confidentiality of any such attorney's or adviser's tax
27 strategies (regardless of whether such limitation is legally binding) upon disclosure by the
28

1 acknowledging party of the tax treatment or tax structure of any transaction, including any
2 transaction contemplated by this Agreement.

3 46. Class Certification. The Parties stipulate to class certification for purposes of
4 settlement only. If the Court does not grant either preliminary or final approval of this Settlement,
5 the Parties stipulate that this stipulation regarding class certification will be revoked and the Parties
6 will return to a point in litigation immediately prior to the execution of this Settlement Agreement.

7 46. Approval of Settlement. Plaintiff will move the Court to grant preliminary and final
8 approval of this class action Settlement. The Parties agree to work diligently and cooperatively to
9 have this matter presented to the Court for preliminary and final approval.

10 47. Release of Claims by Plaintiff. Plaintiff releases the “Released Claims by Plaintiff,”
11 as defined, as of the Effective Date. Except with respect to a breach of obligations arising out of
12 this Settlement, if any, to the fullest extent permitted by law, Plaintiff agrees not to lodge any
13 complaint in court, or with any federal, state or local agency or any other forum, including without
14 limitation arbitration, in any jurisdiction, arising out of or related to the Released Claims by Plaintiff.
15 Other than the Action, Plaintiff hereby represents and warrants that he has brought no complaint,
16 claim, charge, action or proceeding against any of the Released Parties in any jurisdiction or forum,
17 nor will he, from the date of signing forward, assist or encourage any other person or persons in
18 doing so. Nothing herein shall prevent Plaintiff from filing or from cooperating in any charge filed
19 with a governmental agency (including the Equal Employment Opportunity Commission and/or the
20 National Labor Relations Board) or for providing truthful information to law enforcement; however,
21 Plaintiff acknowledges and agrees that he is waiving the right to any monetary recovery should any
22 agency (such as the Equal Employment Opportunity Commission or any similar state or local
23 agency) pursue any claim on his behalf. Except with respect to a breach of obligations arising out
24 of this Settlement, execution of this Settlement by the Parties operates as a complete bar and defense
25 against any and all of the Released Claims. If Plaintiff should hereafter make any of his Released
26 Claims as part of any charge, complaint, action, claim or proceeding against the Released Parties,
27 this Settlement may be raised as and shall constitute a complete bar to any such action, claim or
28 proceeding and the Released Parties, or any of them, shall be entitled to and shall recover from the

1 other all costs incurred, including attorneys' fees, in defending against any such action, claim or
2 proceeding.

3 48. Release of Claims by Settlement Class Members. Settlement Class Members release
4 the "Released Claims by Settlement Class Members," as defined, as of the Effective Date. Except
5 with respect to a breach of obligations arising out of this Settlement, if any, to the fullest extent
6 permitted by law, Settlement Class Members agree not to lodge any complaint in court, or with any
7 federal, state or local agency or any other forum, including without limitation arbitration, in any
8 jurisdiction, arising out of or related to the Released Claims by Settlement Class Members.

9 49. Agency Charges. Nothing in this Settlement is intended to prohibit Plaintiff and
10 Settlement Class Members from filing a charge with any agency that enforces anti-discrimination
11 or securities laws, or from cooperating with or providing truthful information to any such agency or
12 law enforcement. However, Plaintiff understands that by signing this Settlement, he has waived his
13 right to recover any money from any of the Released Parties, other than the amounts payable under
14 this Settlement.

15 50. Settlement Administration. Within twenty (20) calendar days after the Preliminary
16 Approval Date, Defendant shall provide the Settlement Administrator with the Class Information.

17 51. Notice to the Class. Upon receipt of the Class Information, the Settlement
18 Administrator will perform a search based on the National Change of Address Database to update
19 and correct any known or identifiable address changes. Within fourteen (14) calendar days after
20 receiving the Class Information, the Settlement Administrator shall mail copies of the Notice of
21 Class Settlement to all Class Members via regular First Class U.S. Mail. The Settlement
22 Administrator shall exercise its best judgment to determine the current mailing address for each
23 Class Member. The address identified by the Settlement Administrator as the current mailing
24 address shall be presumed to be the best mailing address for each Class Member.

25 a. Undeliverable Notices. Any Notice of Class Settlement returned to the
26 Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed
27 to the forwarding address affixed thereto within seven (7) calendar days. If no forwarding address
28 is provided, the Settlement Administrator shall promptly attempt to determine a correct address by

1 use of skip-tracing, or other search using the name, address and/or Social Security number of the
2 Class Member involved, and shall then perform a re-mailing, if another mailing address is identified
3 by the Settlement Administrator. Class Members who receive a re-mailed Notice of Class Settlement
4 shall have forty-five (45) days after the postmark date of the re-mailed Notice of Class Settlement
5 to: (a) submit a Request for Exclusion; or (b) submit an Objection to the Settlement.

6 b. Disputes Regarding Individual Settlement Payments. Class Members will
7 have the opportunity, should they disagree with Defendant's records regarding the dates of
8 employment stated in the Notice of Class Settlement, to provide documentation and/or an
9 explanation to show contrary information by the Response Deadline. The dispute form must: (a)
10 contain the full name, address, and telephone number of the Class Member, and the last four digits
11 of the Class Member's social security number or full employee ID number; (b) contain the case
12 name and case number; (c) a clear statement by the Class Member that he or she is disputing the
13 number of Compensable Workweeks and the basis for the dispute; (d) any documentation
14 demonstrating that the number of Compensable Workweeks listed in the Notice of Class Settlement
15 is incorrect; (e) be signed by the Class Member; and (f) be postmarked by the Response Deadline.
16 The date of the postmark on the return mailing envelope on the dispute form shall be the exclusive
17 means used to determine whether it has been timely submitted. If there is a dispute, the Settlement
18 Administrator will consult with the Parties to determine whether an adjustment is warranted. The
19 Settlement Administrator shall then determine the eligibility for, and the amounts of, any Individual
20 Settlement Payments under the terms of this Agreement. In the absence of circumstances indicating
21 fraud, manipulation or destruction, Defendant's records shall be given a rebuttable presumption of
22 accuracy.

23 c. Request for Exclusion. Class Members who wish to exclude themselves from
24 the Settlement must mail to the Settlement Administrator a Request for Exclusion by the Response
25 Deadline. The Request for Exclusion must: (a) contain the full name, address, and telephone number
26 of the Class Member, and the last four digits of the Class Member's social security number or full
27 employee ID number; (b) contain the case name and case number; (c) a clear statement by the Class
28 Member that he or she is electing to be excluded from the Settlement; (d) be signed by the Class

1 Member; and (e) be postmarked by the Response Deadline. The date of the postmark on the return
2 mailing envelope on the Request for Exclusion shall be the exclusive means used to determine
3 whether it has been timely submitted. The Request for Exclusion will be deemed invalid if it does
4 not contain the foregoing information. Any Class Member who requests to be excluded from the
5 Settlement Class shall not be entitled to any recovery under the Settlement and shall not be bound
6 by the terms of the Settlement or have any right to object, appeal or comment thereon. Class
7 Members who fail to submit a valid and timely Request for Exclusion on or before the Response
8 Deadline shall be bound by all terms of the Settlement and any Final Approval Order and Judgment
9 entered in this Action.

10 d. Objections. Class Members who wish to object to the Settlement must mail
11 to the Settlement Administrator a written Objection by the Response Deadline. The Objection must:
12 (a) contain the full name, address, and telephone number of the Class Member, and the last four
13 digits of the Class Member's social security number or full employee ID number; (b) contain the
14 case name and case number; (c) the dates of employment of the Class Member; (d) state whether
15 the Class Member intends to appear at the final approval hearing; (e) be signed by the Class Member;
16 (f) state the basis for the Objection, including any legal briefs, papers or memoranda in support of
17 the Objection; and (g) be postmarked by the Response Deadline. The date of the postmark on the
18 return mailing envelope on the Objection shall be the exclusive means used to determine whether
19 the Objection has been timely submitted. Class Members who fail to make Objections in the manner
20 specified above shall be deemed to have waived any objections and shall be foreclosed from making
21 any objections (whether by appeal or otherwise) to the Settlement. Class Members who submit a
22 timely Objection will have a right to appear at the final approval hearing in order to have their
23 Objection heard by the Court. At no time shall any of the Parties or their counsel seek to solicit or
24 otherwise encourage Class Members to submit Objections to the Settlement or appeal from the Final
25 Approval Order and Judgment. Class Counsel shall not represent any Class Members with respect
26 to any such Objections. The Settlement Administrator will provide the Parties with any Objection
27 within five (5) calendar days of receipt of the Objection. Plaintiff will file any and all Objections
28 with the Court in advance of the Final Approval Hearing.

1 52. Funding Gross Settlement Amount. Within twenty-one (21) calendar days of the
2 Effective Date, Defendant shall wire transfer the full Gross Settlement Amount to the Settlement
3 Administrator.

4 53. Allocation of Settlement. Individual Settlement Payments will be paid from the Net
5 Settlement Amount and shall be paid pursuant to the settlement formula set forth herein. Individual
6 Settlement Payments shall be mailed by regular First Class U.S. Mail to Settlement Class Members'
7 last known mailing address.

8 a. The Settlement Administrator shall calculate the total Compensable Work
9 Weeks for all Settlement Class Members based on the Class Information provided by Defendant.
10 The respective Compensable Work Weeks for each Settlement Class Member will be divided by the
11 total Compensable Work Weeks for all Settlement Class Members, resulting in the Payment Ratio
12 for each Settlement Class Member. Each Settlement Class Member's Payment Ratio will then
13 multiplied by the Net Settlement Amount to determine his or her Individual Settlement Payment.

14 b. One hundred percent (100%) of the Individual Settlement Payment shall
15 represent payment for penalties. This payment will not be subject to withholding of local, state, and
16 federal taxes. If required, the Settlement Administrator shall issue an IRS Form 1099 to each
17 Settlement Class Member in relation to this payment.

18 c. Uncashed Settlement Checks. Individual Settlement Payment checks shall
19 remain negotiable for one hundred and twenty (120) days from the postmark date of issuance. If the
20 Settlement Check is not cashed, deposited, or otherwise negotiated within the 120-day deadline, the
21 check will be voided, and the funds associated with any such voided checks shall be distributed in
22 accordance with California Code of Civil Procedure § 384 to Legal Aid at Work, a nonprofit
23 organization which, among other things, operates Workers' Rights Clinics at sites across California.
24 The Parties represent that they do not have an interest in the governance or work of Legal Aid at
25 Work. Should a conflict of interest or other issue lead to the disapproval of Legal Aid at Work as a
26 *cy pres* recipient, the Parties will meet and confer as to a suitable replacement *cy pres* recipient.

27 d. Certification By Settlement Administrator. The Parties have the right to
28 monitor and review administration of the Settlement. Any disputes not resolved by the Settlement

1 Administrator concerning the administration of the Settlement will be resolved by the Court, under
2 the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties
3 will confer in good faith to resolve the disputes without the necessity of involving the Court. Upon
4 completion of administration of the Settlement, the Settlement Administrator shall provide written
5 certification of such completion to counsel for the Parties, and which shall be filed with the Court
6 as necessary.

7 e. Settlement Awards Do Not Trigger Additional Benefits. All monies received
8 by Settlement Class Members shall be deemed to be income to such Settlement Class Members
9 solely in the year in which such awards actually are received by the Settlement Class Members. It
10 is expressly understood and agreed that the receipt of such Individual Settlement Payments will not
11 entitle any Settlement Class Member to additional compensation or benefits under any company
12 compensation or benefit plan or agreement in place during the period covered by the Settlement,
13 nor will it entitle any Settlement Class Member to any increased pension and/or retirement, or other
14 deferred compensation benefits. It is the intent of this Settlement that any Individual Settlement
15 Payments provided for in this Agreement are the sole payments to be made by Defendant to the
16 Settlement Class Members in connection with this Settlement, and that the Settlement Class
17 Members are not entitled to any new or additional compensation or benefits as a result of having
18 received the Individual Settlement Payments (notwithstanding any contrary language or agreement
19 in any benefit or compensation plan document that might have been in effect during the period
20 covered by this Settlement).

21 f. Class Representative Service Award. Defendant agrees not to oppose or
22 object to a Class Representative Service Award to Plaintiff of up to Five Thousand Dollars
23 (\$5,000.00), subject to Court approval. The Settlement Administrator shall issue an IRS Form
24 1099-MISC to Plaintiff in connection with the Class Representative Service Award payment.
25 Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on his Class
26 Representative Service Award and shall hold harmless Defendant and Class Counsel from any claim
27 or liability for taxes, penalties, or interest arising as a result of the Class Representative Service
28 Award payment. The Class Representative Service Award shall be in addition to Plaintiff's

1 Individual Settlement Payment. This Settlement is not contingent upon the Court awarding Plaintiff
2 a Class Representative Service Award in any amount, and any amount requested by Plaintiff for the
3 Class Representative Service Award that is not granted by the Court shall return to the Net
4 Settlement Amount and be distributed to Settlement Class Members as provided in this Agreement.

5 g. Class Counsel Award. Defendant agrees not to oppose or object to any
6 application or motion by Class Counsel for attorneys' fees not to exceed one-third from the Gross
7 Settlement Amount, or Two Hundred and Sixty Thousand Dollars (\$260,000.00). Defendant further
8 agrees not to oppose any application or motion by Class Counsel for the reimbursement of any costs
9 or expenses associated with Class Counsel's prosecution of this matter from the Gross Settlement
10 Amount not to exceed Twenty Thousand Dollars (\$20,000.00). Class Counsel shall be solely and
11 legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The
12 Settlement Administrator shall issue an IRS Form 1099-MISC to Class Counsel for the payments
13 made pursuant to this paragraph. This Settlement is not contingent upon the Court awarding Class
14 Counsel any particular amount in attorneys' fees and costs. Any amount requested by Class Counsel
15 for the Class Counsel Award and costs that is not granted by the Court shall return to the Net
16 Settlement Amount and be distributed to Settlement Class Members as provided in this Agreement.

17 h. Settlement Administration Costs. The Settlement Administrator shall be paid
18 for the costs of administration of the Settlement from the Gross Settlement Amount. The costs of
19 notice and administration for the disbursement of the Gross Settlement Amount shall not exceed
20 \$40,950.00. Prior to the filing of a motion for final approval of this Settlement, the Settlement
21 Administrator shall provide the Parties with a statement detailing the costs of administration.

22 i. Payment to the LWDA. Twenty thousand dollars (\$20,000) from the Gross
23 Settlement Amount will be allocated to penalties under the Private Attorneys General Act of 2004.
24 Seventy-five percent (75%) of that amount, or \$15,000.00, will be paid to the LWDA and twenty-
25 five (25%) of that amount, or \$5,000.00, will be paid to the Settlement Class. This PAGA Payment
26 is made pursuant to California Labor Code § 2699(i).

27 54. Distribution of Settlement Payments. Individual Settlement Payments to Settlement
28 Class Members, the Class Representative Service Award, the Class Counsel Award, Settlement

1 Administration Costs, and payment to the LWDA, shall all be distributed by the Settlement
2 Administrator within fourteen (14) calendar days of receipt of the Gross Settlement Amount from
3 Defendant. No person shall have any claim against Defendant, Defendant's Counsel, Plaintiff,
4 Settlement Class Members, Class Counsel, or the Settlement Administrator based on distributions
5 and payments made in accordance with this Agreement.

6 55. Indemnification. Plaintiff and Settlement Class Members understand and agree that
7 they are solely responsible for any tax liabilities and consequences that they and/or Defendant may
8 incur as the result of all payments made under this Settlement, and that the Released Parties shall
9 bear no responsibility for any such liabilities or consequences. Plaintiff agrees to indemnify and
10 hold Released Parties harmless from liability for tax payments, required tax withholdings, penalties,
11 additions to tax and/or interest that the Released Parties are obligated to pay because of Plaintiff's
12 failure to comply with his obligations under this Settlement, and the Released Parties shall not be
13 required to pay any further sums to Plaintiff for any reason as part of this settlement even if the tax
14 liabilities and consequences to Plaintiff are ultimately assessed in a fashion not presently anticipated
15 by him.

16 56. Non Disparagement. Plaintiff agrees that he will not disparage the Released Parties
17 in any manner. Nothing herein shall preclude Plaintiff from providing truthful information or
18 testimony to any government or law enforcement agency, or if compelled by operation of law or
19 legal process.

20 57. No Cooperation/Assistance. To the fullest extent permitted by law, Plaintiff
21 represents, warrants, and agrees not to voluntarily assist anyone else in lodging or prosecuting any
22 formal or informal complaint or charge in any court, or with any federal, state or local agency,
23 arbitrator, or any other forum in any jurisdiction against Defendant or the Released Parties arising
24 out of or related to any person's former, current, or prospective employment with Defendant or any
25 affiliated entity. Nothing in this Settlement, however, shall restrict Plaintiff's ability to testify
26 truthfully in any suit, hearing, or investigation which Plaintiff has not personally commenced
27 provided that his testimony is compelled by subpoena or other operation of law.

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1 58. Final Settlement Approval Hearing and Entry of Final Judgment. Upon expiration
2 of the Response Deadline, a final approval hearing shall be conducted to determine, *inter alia*, final
3 approval of the Settlement and amounts properly payable for: (a) Individual Settlement Payments;
4 (b) the Class Counsel Award; (c) the Class Representative Service Award; (d) payment to the
5 LWDA; and (e) the Settlement Administration Costs.

6 59. Nullification of Settlement Agreement. In the event: (a) the Court does not enter the
7 Order for preliminary approval of the Settlement; (b) the Court does not finally approve the
8 Settlement; (c) the Court does not enter a Final Approval Order and Judgment as provided herein;
9 or (d) the Settlement does not become final for any other reason, this Settlement Agreement shall
10 be null and void and any order or judgment entered by the Court in furtherance of this Settlement
11 shall be treated as void from the beginning. In such cases, the Parties and any funds to be awarded
12 under this Settlement shall be returned to their respective statuses as of the date and time
13 immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects
14 as if this Agreement had not been executed, except that any fees already incurred by the Settlement
15 Administrator shall be paid by Defendant. In the event an appeal is filed from the Court's Final
16 Approval Order and Judgment, or any other appellate review is sought, administration of the
17 Settlement shall be stayed pending final resolution of the appeal or other appellate review, and any
18 fees incurred by the Settlement Administrator prior to it being notified of the filing of an appeal
19 from the Court's Final Approval Order and Judgment, or any other appellate review, shall be paid
20 to the Settlement Administrator by the party or person that filed the appeal, within thirty (30)
21 calendar days of said notification.

22 60. No Effect on Employee Benefits. Amounts paid to Plaintiff or other Settlement Class
23 Members pursuant to this Agreement shall be deemed not to be pensionable earnings and shall not
24 have any effect on the eligibility for, or calculation of, any of the employee benefits (e.g., vacations,
25 holiday pay, retirement plans, etc.) of Plaintiff or Settlement Class Members.

26 61. No Admission by Defendant. Defendant denies any and all claims alleged in this
27 Action and denies all wrongdoing whatsoever. This Settlement Agreement is not a concession or
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1 admission, and shall not be used against Defendant as an admission or indication with respect to any
2 claim of any fault, concession, or omission by any Defendant.

3 62. Exhibits and Headings. The terms of this Settlement Agreement include the terms
4 set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth
5 herein. Any Exhibits to this Agreement are an integral part of the Settlement. The descriptive
6 headings of any paragraphs or sections of this Agreement are inserted for convenience of reference
7 only and do not constitute a part of this Agreement.

8 63. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
9 except such proceedings necessary to implement and complete the Settlement, holding the Action
10 in abeyance pending the final approval hearing to be conducted by the Court.

11 64. Dispute Resolution. Except as otherwise set forth herein, all disputes concerning the
12 interpretation, calculation or payment of Settlement claims, or other disputes regarding compliance
13 with this Agreement shall be resolved as follows:

14 a. If Plaintiff or Class Counsel, on behalf of Plaintiff or any Settlement Class
15 Member, or Defendant's Counsel, on behalf of Defendant, at any time believe that the other Party
16 has breached or acted contrary to the Agreement, that Party shall notify the other Party in writing of
17 the alleged violation.

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

21 c. If the response does not address the alleged violation to the initiating Party's
22 satisfaction, the Parties shall negotiate in good faith for up to ten (10) calendar days to resolve their
23 differences.

24 d. If Class Counsel and Defendant's Counsel are unable to resolve their
25 differences after twenty (20) calendar days, either Party shall first contact the mediator (Steven J.
26 Rottman) to try to resolve the dispute. If that proves unsuccessful, the party may file an appropriate
27 motion for enforcement with the Court. The briefing of such motion should be in letter brief form
28 and shall not exceed five (5) single-spaced pages (excluding exhibits).

1 e. Reasonable attorneys' fees and costs for work done in resolving a dispute
2 under this Section may be recovered by any Party that prevails under the standards set forth within
3 the meaning of applicable law.

4 65. Amendment or Modification. This Agreement may be amended or modified only by
5 a written instrument signed by counsel for all Parties.

6 66. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute
7 the entire Agreement among these Parties, and no oral or written representations, warranties, or
8 inducements have been made to any Party concerning this Agreement or its Exhibits other than the
9 representations, warranties, and covenants contained and memorialized in the Agreement and its
10 Exhibits. Any subsequent alterations, additions or deletions to this Settlement shall be ineffective
11 unless reduced to writing and signed by each of the Parties whose signature appears below

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

25 68. Binding on Successors and Assigns. This Agreement shall be binding upon, and
26 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

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

1 Dated: _____

By: _____
Alejandro Zamarripa

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4 Dated: 7. 23. 2020

By: 
Acara Solutions, Inc.

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Title: CEO

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APPROVED AS TO FORM:

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11 Dated: _____

By: _____
Scott E. Wheeler
Law Office of Scott E. Wheeler

Counsel for Plaintiff Alejandro Zamarripa

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14

15 Dated: _____

By: _____
Aubry Wand
The Wand Law Firm, P.C.

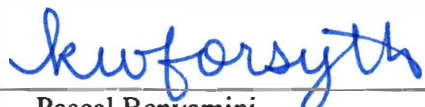
Counsel for Plaintiff Alejandro Zamarripa

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19 Dated: July 23, 2020

By: 
Pascal Benyamini
Katrina W. Forsyth
Faegre Drinker Biddle & Reath LLP

Counsel for Defendant Acara Solutions, Inc.

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Dated: 7/21/2020

DocuSigned by:
Alejandro Zamarripa
D261C268AA34FE...
Alejandro Zamarripa


Dated: _____

By: _____
Acara Solutions, Inc.

Title: _____

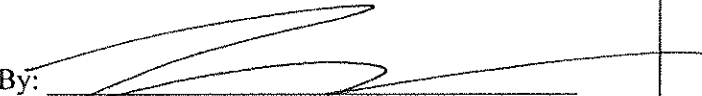
APPROVED AS TO FORM:

Dated: 7/22/20

By: 
Scott E. Wheeler
Law Office of Scott E. Wheeler

Counsel for Plaintiff Alejandro Zamarripa

Dated: 7/21/2020

By: 
Aubry Wand
The Wand Law Firm, P.C.

Counsel for Plaintiff Alejandro Zamarripa

Dated: _____

By: _____
Pascal Benyamini
Katrina W. Forsyth
Faegre Drinker Biddle & Reath LLP

Counsel for Defendant Acara Solutions, Inc.