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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUN 13 2023

BY: 
Sergio Villanueva, Deputy

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11 Attorneys for Plaintiff Frederick Simmonds, individually,
12 and on behalf of all others similarly situated.

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF SAN BERNARDINO**

15 FREDERICK SIMMONDS, individually and
16 on behalf of all others similarly situated,

17 Plaintiff,

18 vs.

19 TRIAGE PARTNERS CA, LLC; and DOES 1
20 through 20, inclusive,

21 Defendants.

Case No. CIVSB2212599

*Assigned for all purposes to
Hon. David Cohn
Dept. S-26*

**DECLARATION OF NAMRATA KAUR IN
SUPPORT OF MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: August 8, 2023
Time: 9:00 a.m.
Dept.: S26

1 I, Namrata Kaur, hereby declare as follows:

2 1. I am an attorney at law licensed to practice before all of the courts of the State of
3 California. I am an associate with Aegis Law Firm, PC (“Aegis”), counsel for Plaintiff in this matter.
4 I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein.

5 2. I submit this declaration in support of Plaintiff’s Motion for Preliminary Approval of
6 Class Action Settlement. If called as a witness, I could and would competently testify thereto.

7 **Case History**

8 3. On June 16, 2022, Plaintiff Frederick Simmonds through my office filed a class action
9 complaint against Defendant in the San Bernardino County Superior Court alleging that Defendant: (1)
10 failed to pay minimum wages; (2) failed to pay overtime, (3) failed to provide meal periods; (4) failed to
11 permit rest breaks; (5) failed to provide reimbursements for necessary business expenses; (6) failed to
12 provide accurate itemized wage statements; (7) failed to pay wages timely during employment; (8) failed
13 to pay all wages due upon separation of employment; (9) violated Business and Professions Code §§
14 17200, et seq. On June 15, 2022, Plaintiff through my office provided written notice to the LWDA and
15 Defendant regarding Defendant’s alleged Labor Code violations, as required by Lab. Code § 2699.3(a).
16 The LWDA did not respond to this notice, indicating it did not intend to investigate, thus allowing Plaintiff
17 to bring a PAGA claim against Defendant. On January 20, 2023 Plaintiff through my office, filed a First
18 amended complaint to add Enforcement of Labor Code§ 2698 et seq. ("PAGA") as a cause of action.

19 4. The Parties agreed to mediation early into litigation and Defendant agreed to informally
20 produce information and data in preparation thereof. Through informal discovery, Defendant produced
21 Plaintiff’s and class members’ payroll records and time punch data and employee handbook containing
22 the written policies. My office thoroughly investigated and assessed the value of the class claims using
23 Defendant’s data and documents produced prior to mediation. My office personally reviewed
24 timekeeping records and compared them to wage statements to identify potential violations My office
25 engaged an expert to quantify the potential exposure using the time and payroll records, and then assessed
26 the risks associated with each claims meriting reductions in the likely recovery at trial. Accordingly, my
27 office fully understood the strengths and weaknesses of the claims before the Parties reached a
28 settlement.

1 5. On January 17, 2023, the Parties attended a mediation session with Jill Sperber, a respected
2 mediator. After a full day of negotiating, the Parties agreed to a settlement amount. The Parties spent the
3 next few months negotiating the terms of the Settlement, which was finalized in May of 2023. The
4 negotiations were adversarial, conducted at arm's length and tempered by the efforts of both sides to
5 serve the interests of their clients. Plaintiff through my office, submitted the Settlement to the LWDA
6 pursuant to Lab. Code § 2699(1)(2).

7 6. Defendant's records show the Class consists of approximately 200 individuals, making
8 joinder of all Class Members impracticable. Further, the Class is readily ascertainable from Defendant's
9 business records because all Class Members are current or former employees of Defendant.

10 7. Plaintiff alleged that Defendant maintained uniform employment policies and/or practices
11 that illegally deprived Class Members of lawful wages including minimum and overtime wages, meal
12 periods, rest breaks, reimbursement of necessary business expenses, accurate wage statements, pay timely
13 during employment and waiting time pay. Plaintiff's allegations present common legal and factual
14 questions of, *inter alia*, whether Defendant applied the same scheduling, timekeeping, minimum and
15 overtime pay, meal period, rest break, reimbursements and final pay policies to all Class Members;
16 whether these policies and practices resulted in Labor Code violations; whether Defendant's conduct was
17 intentional; and whether Class Members are entitled to penalties. These common questions could be
18 resolved using Class Members' schedules, time punches, and payroll records, Defendant's corporate
19 representative's testimony, written communications between Defendant and Class Members, and Class
20 Member declarations.

21 8. Plaintiff alleges that he and other Class Members were employed by Defendant and
22 injured by Defendant's common wage and hour policies and practices, including Defendant's
23 scheduling, timekeeping, minimum wage pay, overtime pay, meal period, rest break, reimbursement of
24 necessary business expenses, timely payment during employment, inaccurate wage statements and final
25 pay practices and policies. Through documents and information exchanged in formal discovery,
26 including production of thousands of pages of documents by Defendant, Plaintiff confirmed that these
27 common policies and practices similarly affected Plaintiff and the Class.

1 14. Plaintiff’s meal period claim was potentially worth about \$1.2 million, in light of the
2 violations shown in the records. However, Defendant argued that it maintained compliant written
3 policies and provided compliant meal breaks to its employees. Thus, Plaintiff discounted this claim for
4 the risk that the damages could at least be reduced, and that the claim would be hard to certify with a
5 compliant policy.

6 15. Plaintiff alleged that class members were unable to take their rest breaks or their rest
7 breaks were interrupted. Plaintiff calculated the damages for this claim could reach up to \$1.3 million.
8 However, Defendant argued that Defendant maintained a compliant written policy and that class
9 members actually took complaint rest breaks. As such, this claim would have relied on anecdotal Class
10 Member testimony, making it a riskier claim at class certification and liability stages.

11 16. Plaintiff alleged that class members were owed reimbursements for use of their personal
12 cell-phones for work related purposes and to purchase their own tools and equipment for business
13 purposes. Plaintiff calculated the damages for this claim could reach up to \$841,185. However,
14 Defendant argued that that they maintained a provision for reimbursements. As such, this claim would
15 have relied on Class Member testimony, making it a riskier claim at class certification and liability
16 stages.

17 17. Plaintiff’s Counsel also considered the arguable presence of various penalties, and weighed
18 the potential recoveries against probable defenses. Specifically, Defendant could argue that Plaintiff could
19 not prove the “willful” prong needed to obtain waiting time penalties under Labor Code § 203.
20 Additionally, Defendant could argue that Plaintiff could not show that Class Members suffered an “injury”
21 as a result of wage statement violations, as required by Labor Code § 226, or that the wage statements
22 correctly reflected the wages paid and owed. Moreover, Plaintiff would not recover any of these derivative
23 penalties if she failed to prove the underlying claims. Thus, although waiting time penalties could have
24 reached \$539,398 and the wage statement penalties could have reached \$209,450 if Plaintiff prevailed on
25 every claim, they were heavily discounted

26 18. The PAGA claim presented even higher hurdles. Although Plaintiff’s Counsel found
27 Defendant’s exposure could potentially reach approximately \$2.3 million under Lab. Code § 2699(f),
28 assuming the initial penalty rate of \$100 for each pay period, Plaintiff would have to prove a violation

1 in every pay period. Most importantly, the Court would have discretion to reduce the PAGA award
2 based on whether the amount of the award would be “unjust, arbitrary and oppressive, or confiscatory.”
3 Lab. Code § 2699(e)(2). In theory, the Court could reduce the award by 99% if it so wished. Plaintiff
4 was doubtful she could recover any PAGA penalties, especially if a large class judgment was entered
5 for the same violations. Accordingly, Plaintiff could not place a high value on the PAGA penalties, and
6 therefore allocated \$20,000 of the Gross Settlement Amount to settle these claims.

7 **Incentive Award**

8 19. Plaintiff had the option to pursue his claims individually, but instead chose to pursue this
9 class action, delaying individual recovery until approval of a class action settlement. Throughout the
10 case, Plaintiff assisted counsel in gathering the evidence necessary to prosecute the class claims,
11 maintained regular contact with counsel, was available on the day of mediation and reviewed the
12 Settlement to make sure it was fair to the Class. None of the other 200 Class Members had shown any
13 interest in bearing the expense and burden of litigating their own claims. No action would likely have
14 been taken by Class Members individually, and no compensation would have been recovered for them,
15 but for Plaintiff’s services on behalf of the Class.

16 20. At the final approval stage, Plaintiff will further support the request for an Incentive
17 Award by a declaration that addresses the factors for the award.

18 **Counsel’s Qualifications**

19 21. Aegis Law Firm prosecutes wage and hour cases, including class actions on behalf of
20 employees and others who have had their rights violated. Aegis, either on its own, or with co-counsel is
21 currently serving as plaintiffs’ counsel of record in dozens of wage and hour and employment class
22 action cases pending in both state and federal court.

23 22. The attorneys working on this case have been appointed class counsel in many cases,
24 through both contested motions and settlement approval motions.

25 23. Aegis has litigated and successfully resolved many wage and hour class action cases
26 involving failure to pay wages and derivative Labor Code claims and penalties. *See, e.g., Roman, et al.*
27 *v. TRM Manufacturing, Inc.*, Riverside Superior Court, Case No. RIC1706458 (class certification granted
28 on December 17, 2020 for all current and former non-exempt workers’ on issues of rounding, meal period,

1 and rest period claims); *Gamboa v. Kamran, et al.*, San Bernardino Superior Court, Case No.
2 CIVDS1605273 (class certification granted on September 16, 2019, for factory workers on issues of
3 rounding, automatic deduction of first meal period, and second meal period); *Romo, et. al, v. GMRI, Inc.*
4 *d/b/a/ Olive Garden*, United States District Court Central District of California, Case No. EDCV-12-
5 0715-JLQ (class certification granted for restaurant workers' rest period claims); *Sawyer v. Retail Data,*
6 *LLC*, Orange County Superior Court, Case No. 30-2014-00753767-CU-OE-CXC (unpaid wage and rest
7 break claims for piece rate workers); *Gonzalez v. SFFI Company, Inc., et. al*, San Bernardino County
8 Superior Court, Case No. CIV DS1504287 (unpaid wages, meal period and rest break claims for non-
9 exempt employees); *Antoine v. Riverstone Residential California, Inc., et. al*, Sacramento County
10 Superior Court, Case No. 34-2013-00155974 (rate of pay, on-call time, unpaid wage, meal period, rest
11 break, and expense reimbursement claims for non-exempt employees); *Nguyen v. Pharmerica*, Orange
12 County Superior Court, Case No. 30-2014-00716072-CU-OE-CXC (unpaid wages and unreimbursed
13 expenses for pharmacists); *Orellana v. Westlake*, Los Angeles County Superior Court, Case No.
14 BC539614 (unpaid overtime, meal period and rest break claims for call center employees); *Kent v.*
15 *Mountain View Child Care, Inc.*, Los Angeles County Superior Court, Case No. BC539633 (minimum
16 wage, overtime, meal period, and rest break claims for hospital workers); *Durroh v. East West Bank,*
17 Los Angeles County Superior Court, Case No. BC528860 (overtime claims for failure to include
18 bonuses in regular rate of pay for bank workers); *O'Brien et al. v. Pizza Hut of Southeast Kansas, Inc.*
19 *et al.*, Riverside County Superior Court, Case No MCC 1301030 (meal period and expense
20 reimbursement claims for delivery drivers); *Bell v. Prime Healthcare*, Orange County Superior Court,
21 Case No. 30-2011-00475240-CU-OE-CXC (overtime claims for failure to include shift premiums in
22 regular rate of pay and failure to provide meal and rest periods to hospital workers), *Grana v. Toys R*
23 *US-Delaware, Inc.*, Central District of California, Case No. 2:13-cv-01302-DSF-JCG (bag check claims
24 for unpaid wages and failure to provide meal periods and rest breaks to retail employees); *Mendez v.*
25 *H.J. Heinz Company, L.P., et. al*, Orange County Superior Court, Case No. 30-2013-00644915-CU-OE-
26 CXC (failure to pay all wages to factory workers due to rounding practice); *Fresh & Easy Wage and*
27 *Hour Cases*, Los Angeles Superior Court, Cas No. JCCP 4705 (failure to provide meal and rest periods
28 to supermarket workers); *Lunsford v Stater Bros.*, Riverside Superior Court, Case No. RIC 1104475

1 (failure to provide meal and rest periods to supermarket workers); *Gregg v. Belo*, Riverside Superior
2 Court, Case No. RIC 523697 (unpaid wages and missed meal and rest periods due to misclassification
3 of newspaper delivery employees); *Brown v. Experian Information Solutions, Inc., et. al.*, Orange
4 County Superior Court, Case No. 30-2012-00375163 (misclassification of engineers and similar
5 positions); *Tereth v. Shakey's USA, Inc.*, Los Angeles Superior Court, Case No. BC441359 (failure to
6 provide meal and rest periods to restaurant employees); *Azurin v. Harbor Distributing LLC, et. al.*, Los
7 Angeles Superior Court, Case No. BC421392 (failure to pay overtime wages, provide meal and rest
8 periods, reimburse business expenses to Account Managers); *Caffero v. ABC* (failure to provide meal
9 periods and reimburse expenses of therapists). All cases cited above were successfully resolved for the
10 plaintiff classes.

11 24. Kashif Haque received his J.D. in 2001 from Washington University School of Law.
12 While in law school, Mr. Haque was a member of the Law Review Editorial Board, author of an article
13 published in the Law Review, Executive Board Member of Moot Court, and a member of the Dean's
14 List. He received a Bachelor's of Science in Business Administration from the University of Central
15 Missouri in 1998, where he was a member of the Beta Alpha Psi honors fraternity.

16 25. Since 2004, Mr. Haque has exclusively focused his practice on plaintiff's employment
17 litigation with a specific focus on wage and hour claims. Since then, he has represented over 500,000
18 employees with their employment claims, many of which included wage and hour claims. He has been
19 appointed class counsel in approximately 100 cases and is currently litigating over 150 employment
20 wage and hour class action cases.

21 26. Mr. Haque authored a book on employment litigation strategies with West Publishing
22 and has been invited to speak on class action and wage and hour issues on numerous occasions. He has
23 spoken at seminars by the State Bar of California, California Employment Lawyer's Association
24 (CELA), Orange County Bar Association, and various other CLE providers. Mr. Haque is the former
25 Chair for the Labor and Employment Section of the Orange County Bar Association. He was selected
26 as one of the Top 50 Attorneys in Orange County by Super Lawyers for 2017 and 2019. He has been a
27 Super Lawyer for every year from 2009 to the present. OC Register/Metro has selected him as one of
28

1 the Top 5 Employment Lawyers in Orange County for every year the list was published, from 2012 to
2 2018.

3 27. Samuel A. Wong is a graduate of University of Pennsylvania Law School, where he
4 received his J.D. in 2001. Mr. Wong received a Bachelors of Arts in Sociology from the University of
5 California at Berkeley in 1997.

6 28. After graduation from law school in 2001, the same year in which Mr. Wong took and
7 successfully passed the California Bar Exam, Mr. Wong moved to back to Los Angeles, California
8 where he was employed at Paul Hastings, Janofsky & Walker, LLP. While working in the employment
9 department at Paul Hastings, he was involved in numerous wage and hour class action lawsuits and
10 other employment related matters.

11 29. Mr. Wong became a founding partner of Aegis Law Firm, PC in 2003, and focused his
12 practice on plaintiff's side employment work. Throughout his years of practice, Mr. Wong represented
13 and obtained successful outcomes for his clients, including awards through arbitration and trial.

14 30. Mr. Wong is a member of the Orange County Bar Association, Orange County Trial
15 Lawyers Association, and California Employment Lawyers Association.

16 31. Mr. Wong was chosen by Law and Politics Magazine as a Super Lawyer Rising Star,
17 representing one of the top 2.5% of lawyers under 40 in Southern California in 2011, 2012, 2013, and
18 2014. He was chosen by Law and Politics Magazine as a Super Lawyer in 2015, 2016, 2017, and 2018.
19 Mr. Wong was also chosen as a Top Attorney in the field of employment law by OC Metro in 2014,
20 2015, and 2018.

21 32. Jessica L. Campbell is a partner at Aegis Law Firm. Ms. Campbell was admitted to the
22 California Bar in December of 2011, and received her J.D. from Santa Clara University School of Law
23 and her B.A. from the University of California, Berkeley. Ms. Campbell has dedicated her career to
24 plaintiffs' side class actions. Ms. Campbell's experience includes successful work on class action
25 appeals, class certification motions, and class settlements. She was chosen by Law and Politics
26 Magazine as a Super Lawyer Rising Star, representing one of the top 2.5% of lawyers under 40 in
27 Southern California in 2018-2021.

1 33. I am an associate attorney at Aegis Law Firm, PC. I was admitted to the California Bar
2 in August of 2021. I work exclusively on wage and hour class and representative action litigation at
3 Aegis. Prior to Aegis Law Firm, my experience includes plaintiff and defense side employment law
4 litigation.

5 34. Aegis Law Firm has performed significant work and expended litigation costs in
6 prosecuting the matter with no guarantee of any payment. In doing so, my office had to forego
7 compensable hourly work on other cases so as to devote the necessary time and resources to these
8 contingency class actions and risked recovering nothing for this substantial effort.

9 35. At final approval, Plaintiff's Counsel will fully brief the merits of its request for the award
10 of attorneys' fees and litigation costs.

11
12 **Exhibits**

13 36. A true and correct copy of the Joint Stipulation of Settlement is attached hereto as
14 **Exhibit 1.**

15 37. A true and correct copy of the LWDA's confirmation that my office submitted the Joint
16 Stipulation of Settlement is attached hereto as **Exhibit 2.**

17
18 I declare under penalty of perjury under the laws of the State of California that the foregoing is
19 true and correct.

20 Executed on June 13, 2023 at Irvine, California.

21
22 

23 _____
24 Namrata Kaur

EXHIBIT 1

1 **AEGIS LAW FIRM, PC**
 2 KASHIF HAQUE State Bar No. 218672
 3 SAMUEL A. WONG State Bar No. 217104
 4 JESSICA L. CAMPBELL, State Bar No. 280626
 5 NAMRATA KAUR, State Bar No. 338277
 6 nkaur@aegislawfirm.com
 7 9811 Irvine Center Drive, Suite 100
 8 Irvine, California 92618
 9 Telephone: (949) 379-6250
 10 Facsimile: (949) 379-6251

11 Attorneys for Plaintiff Frederick Simmonds, individually,
 12 and on behalf of all others similarly situated.

13 *[Additional counsel listed on following page]*

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 15 **FOR THE COUNTY OF SAN BERNARDINO**

16 FREDERICK SIMMONDS, individually and on
 17 behalf of all others similarly situated,

18 Plaintiffs,

19 vs.

20 TRIAGE PARTNERS CA, LLC; and DOES 1
 21 through 20, inclusive,

22 Defendants.

Case No. CIVSB 2212599

*Assigned for all purposes to:
 Hon. David Cohn
 Dept. S-26*

JOINT STIPULATION OF SETTLEMENT

1 **TREDWAY, LUMSDAINE & DOYLE LLP**

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3 Telephone: (909)756-0684

4 Facsimile: (866) 298-9254

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6

7 Attorneys for Defendant TRIAGE PARTNERS CA, LLC

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1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of
2 the Court pursuant to the California Rules of Court, that the Settlement of this Action shall be
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein
4 shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of
5 Settlement (“Agreement” or “Settlement”).

6 This Agreement is made by and between Named Plaintiff Frederick Simmonds (“Named
7 Plaintiff”) and the Class Members, on the one hand, and Defendant Triage Partners CA, LLC
8 (“Triage Partners” or “Defendant”), on the other hand. Named Plaintiff and Defendant collectively
9 are referred to in this Agreement as “the Parties.”

10 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and
11 concluded by agreement of Defendant to pay the settlement amount of Two Hundred Fifty Thousand
12 Dollars and zero cents (\$250,000.00) as provided in Section 3.06(a) below (“Gross Settlement
13 Amount”) pursuant to the terms and conditions of this Agreement and for the consideration set forth
14 herein, including but not limited to, a release of all claims by Named Plaintiff and the Class Members
15 as set forth herein.

16 **ARTICLE I**

17 **DEFINITIONS**

18 Unless otherwise defined herein, the following terms used in this Agreement shall have the
19 meanings ascribed to them as set forth below:

20 a. “Action” means the action described as follows: *Frederick Simmonds, individually*
21 *and on behalf of all others similarly situated v. Triage Partners CA, LLC; and DOES 1 through 20,*
22 *inclusive,*” Case No. CIVSB2212599, commenced on June 16, 2022, in the Superior Court of the
23 State of California for the County of San Bernardino and containing the following Causes of Action:

24 Failure to Pay Minimum Wages;

25 Failure to Pay Overtime Wages;

26 Failure to Provide Meal Periods;

27 Failure to Permit Rest Breaks;

28 Failure to Reimburse Business Expenses;

- 1 Failure to Provide Accurate Itemized Wage Statements;
- 2 Failure to Pay Wages Timely During Employment;
- 3 Failure to Pay All Wages Due Upon Separation of Employment;
- 4 Violation of Business and Professions Code §§ 17200, et seq; and
- 5 Enforcement of Labor Code § 2698 et seq.

6 b. "Agreement" means this Joint Stipulation of Settlement, including the attached
7 Exhibit(s).

8 c. "Class" means all current and former non-exempt employees who are or were
9 employed by Defendant in California at any time during the Class Period.

10 d. "Class Counsel" means the attorneys for the Class and the Class Members, who are:
11 AEGIS LAW FIRM, PC
12 Kashif Haque
13 Samuel A. Wong
14 Jessica L. Campbell
15 Namrata Kaur
16 9811 Irvine Center Drive, Suite 100
17 Irvine, California 92618
18 Telephone: (949) 379-6250
19 Facsimile: (949) 379-6251

20 e. "Class List" means a list based on Defendant's business records that identifies each
21 Class Member's name, last known home or mailing address, Social Security number or, as
22 applicable, other taxpayer identification number, dates of employment, and the number of Qualifying
23 Workweeks worked during the Class Period.

24 f. "Class Member(s)" means all members of the Class.

25 g. "Class Period" means June 16, 2018 until January 17, 2023.

26 h. "Court" means the California Superior Court for the County of San Bernardino, where
27 the Action is currently pending.

28 i. "Date of Finality" means the later of the following: (1) the date the Final Order is
signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no
appeal is taken of the Final Order, sixty-five (65) days after the Final Order; or (3) if an appeal or
other judicial review is taken from the Court's overruling of objections to the settlement, ten (10)

1 days after the appeal is withdrawn or after an appellate decision affirming the Final Order becomes
2 final.

3 j. “Defendant” means Defendant Triage Partners CA, LLC

4 k. “Defense Counsel” means counsel for Defendant:

5 l. **TREDWAY, LUMSDAINE & DOYLE LLP**

6 Shannon Marie Jenkins
7 2010 Main Street, Suite 1000
8 Irvine, California 92614
9 Telephone: (909)756-0684
10 Facsimile: (866) 298-9254

11 m. “Disposition” means the method by which the Court approves the terms of the
12 Settlement and retains jurisdiction over its enforcement, implementation, construction,
13 administration, and interpretation.

14 n. “Final Order Approving Settlement of Class Action” or “Final Order” means the final
15 formal court order signed by the Court following the Final Fairness and Approval Hearing in
16 accordance with the terms herein, approving this Agreement.

17 o. “Gross Settlement Amount” means Two Hundred Fifty Thousand Dollars and zero
18 cents (\$250,000.00) to be paid by Defendant as provided by this Agreement to settle this Action. All
19 payments to the Class, administration costs, attorney’s fees and costs, and Incentive Awards,
20 pursuant to Section 3.06(a) below, shall be paid out of the Gross Settlement Amount. The employer’s
21 share of payroll taxes arising from the payments made under this settlement shall be paid by
22 Defendant separate from and in addition to the Gross Settlement Amount. The Gross Settlement
23 Amount is subject to a pro rata increase pursuant to Section 3.04(e) below. No part of the Gross
24 Settlement Amount shall revert to Defendant.

25 p. “Incentive Awards” means a monetary amount of up to Five Thousand Dollars
26 (\$5,000.00) for the Named Plaintiff, subject to Court approval, in recognition of his effort and work
27 in prosecuting the Action on behalf of Class Members, and for the general release of claims.

28 q. “Individual Settlement Payment(s)” means each Participating Class Member’s
respective share of the Net Settlement Amount. Individual Settlement Payments will be determined
by the calculations provided in this Agreement.

1 r. “LWDA” means The State of California Labor and Workforce Development Agency.

2 s. “LWDA Payment” means 75% of the \$20,000 allocated to the settlement of PAGA
3 claims which, subject to Court approval, will be paid to the LWDA pursuant to Section 3.06(e) of
4 this Agreement, as provided for below.

5 t. “Motion for Final Approval” means Plaintiffs’ submission of a written motion,
6 including any evidence as may be required for the Court to conduct an inquiry into the fairness of
7 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and
8 to enter a Final Order in this Action.

9 u. “Motion for Preliminary Approval” means Plaintiffs’ submission of a written motion,
10 including any evidence as may be required for the Court to grant preliminary approval of the
11 Settlement as required by Rule 3.769 of the California Rules of Court.

12 v. “Named Plaintiff” means Frederick Simmonds.

13 w. “Net Settlement Amount” means the Gross Settlement Amount less Court-approved
14 administration costs, Class Counsels’ attorney’s fees and costs, Incentive Awards, and LWDA
15 Payment, pursuant to Section 3.06(a)-(f) below.

16 x. “Non-Participating Class Member(s)” means any Class Member(s) who submit to the
17 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant
18 to Section 3.04(b) below.

19 y. “Notice Packet” means the Notice of Proposed Class Action Settlement in a form
20 substantially similar to the Notice Packet attached hereto as **Exhibit A**, subject to Court approval.

21 z. “PAGA” means the California Private Attorneys General Act of 2004, which is
22 codified in California Labor Code §§ 2698 *et seq.*

23 aa. “PAGA Settlement Amount” means the portion of the Gross Settlement Amount
24 allocated to the resolution of PAGA Group Members’ claims arising under PAGA. The Parties have
25 agreed that the PAGA Settlement Amount is Twenty Thousand Dollars (\$20,000), subject to Court
26 approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA Payment, and the
27 remaining 25% will be added to the Net Settlement Amount and distributed to PAGA Group
28 Members.

1 bb. “PAGA Group Members” means all Class Members employed by Defendant at any
2 time between June 16, 2021 to January 17, 2023 (“PAGA Period”).

3 cc. “Participating Class Member(s)” is defined as a Class Member who does not timely
4 exclude himself or herself from the Settlement and will therefore receive his or her share of the Net
5 Settlement Amount automatically without the need to return a claim form. Each Participating Class
6 Member will be paid his/her Individual Settlement Payment.

7 dd. “Preliminary Approval Date” means the date the Court preliminarily approves the
8 Settlement embodied in this Agreement.

9 ee. “Qualified Settlement Fund” or “QSF” means a fund within the meaning of Treasury
10 Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement
11 Administrator for the benefit of Participating Class Members.

12 ff. “Qualifying Workweeks” means the number of weeks that Class Members worked
13 for Defendant as non-exempt employees during the Class Period.

14 gg. “Released Parties” means Defendant Triage Partners, CA, LLC, and past, present
15 and/or future officers, directors, shareholders, employees, agents, payroll service providers,
16 operators, principals, owners, heirs, representatives, accountants, auditors, consultants, insurers and
17 reinsurers, successors and predecessors in interest, subsidiaries, affiliates, members, divisions,
18 fiduciaries, trustees, partners, shareholders, investors, benefit plans, parents and attorneys, if any.

19 hh. “Response Deadline” means the deadline by which Class Members must postmark or
20 fax to the Settlement Administrator requests for exclusion or written notices of objection. The
21 Response Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet by
22 the Settlement Administrator, unless the sixtieth (60th) calendar day falls on a Sunday or federal
23 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.
24 Postal Service is open. The Response Deadline will be extended as set forth herein if there is a re-
25 mailing.

26 ii. “Settlement Administration Costs” means all costs incurred by the Settlement
27 Administrator in administration of the Settlement, including, but not limited to, mailing of notice to
28 the class, calculation of Individual Settlement Payments, generation of Individual Settlement

1 limitation any contested proceeding relating to the certification of any class. If the Date of Finality
2 does not occur, this Agreement shall be deemed null and void, shall be of no force or effect
3 whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendant expressly
4 reserves the right to challenge the propriety of class certification in the Action for any purpose, if the
5 Date of Finality does not occur.

6 The Parties and their respective counsel shall take all steps that may be requested by the Court
7 relating to the approval and implementation of this Agreement and shall otherwise use their
8 respective best efforts to obtain Court approval and implement this Agreement. If the Court does not
9 grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree
10 to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a
11 resolution, the Parties agree to seek the assistance of mediator Jill R. Sperber to resolve the dispute.

12 **ARTICLE III**

13 **PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT**

14 The procedure for obtaining Court approval of and implementing this Agreement shall be as
15 follows:

16 **Section 3.01: Motion for Conditional Class Certification and Preliminary Approval**

17 Named Plaintiff will bring a motion before the Court for an order conditionally certifying the
18 Class to include all claims pled in the Action based on the preliminary approval of this Agreement.
19 The date that the Court grants preliminary approval of this Agreement will be the "Preliminary
20 Approval Date."

21 **Section 3.02: The Settlement Administrator**

22 The Parties have chosen Phoenix Settlement Administrators, Inc. to administer this
23 Settlement and to act as the Settlement Administrator, including but not limited to distributing and
24 responding to inquiries about the Notice Packet, determining the validity of exclusions/opt-outs,
25 calculating the Net Settlement Amount and the Individual Settlement Payments, issuing the
26 Individual Settlement Payment checks and distributing them to Participating Class Members,
27 establishing and maintaining the QSF, and issuing the payment to Class Counsel for attorneys' fees
28 and costs, the Incentive Award checks to Named Plaintiff, and the employer payroll taxes to the

1 appropriate taxing authorities. The Settlement Administrator shall expressly agree to all of the terms
2 and conditions of this Agreement.

3 All costs of administering the Settlement, including but not limited to all costs and fees
4 associated with preparing, issuing and mailing any and all notices to Class Members and/or
5 Participating Class Members, all costs and fees associated with computing, processing, reviewing,
6 and mailing the Individual Settlement Payments, all costs and fees associated with preparing any tax
7 returns and any other filings required by any governmental taxing authority or agency, all costs and
8 fees associated with preparing any other checks, notices, reports, or filings to be prepared in the
9 course of administering disbursements from the Net Settlement Amount, and any other costs and fees
10 incurred and/or charged by the Settlement Administrator in connection with the execution of its
11 duties under this Agreement (“Settlement Administration Costs”), shall be paid to the Settlement
12 Administrator from the Gross Settlement Amount.

13 **Section 3.03: Notice to Class Members**

14 No later than five (5) business days after the Preliminary Approval Date, Defendant will
15 provide the Settlement Administrator with a “Class List” in electronic format based on its business
16 records, identifying the names of the Class Members, their last known home addresses, Social
17 Security numbers or, as applicable, other taxpayer identification number, their dates of employment
18 and weeks worked during the Class Period.

19 Within ten (10) business days of receiving a Class List from Defendant, the Settlement
20 Administrator will send Class Members, by first-class mail, at their last known address, the Court
21 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the
22 Settlement Class. The Notice Packet will include a calculation of the Class Member’s approximate
23 share of the Net Settlement Amount. Class Members will have sixty (60) days from the date of
24 mailing in which to postmark objections or requests for exclusion. Prior to the initial mailing, the
25 Settlement Administrator will check all Class Member addresses against the National Change of
26 Address database and shall update any addresses before mailing. The Settlement Administrator will
27 skip trace and re-mail all returned, undelivered mail within five (5) days of receiving notice that a
28 Notice Packet was undeliverable. If a Class Member’s notice is re-mailed, the Class Member shall

1 have fifteen (15) calendar days from the re-mailing, or sixty (60) calendar days from the date of the
2 initial mailing, whichever is later, in which to postmark objections or requests for exclusion. Class
3 Members shall not be required to submit claim forms in order to receive a proportional share of the
4 Net Settlement Amount.

5 If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall
6 re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose
7 Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement
8 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
9 mass search on LexisNexis or comparable databases based on set criteria and, if another address is
10 identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties
11 that reasonable means be used to locate Class Members and that the Settlement Administrator be
12 given discretion to take steps in order to facilitate notice of the Settlement and delivery of the
13 Individual Settlement Payments to all Participating Class Members.

14 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records
15 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly
16 status report provided to the Parties.

17 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days
18 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class
19 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class
20 Member's Individual Settlement Payment during the check cashing period on behalf of the Class
21 Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and
22 Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement
23 Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the
24 procedures set forth in Section 3.06(g) below.

25 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the
26 Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration
27 attesting to completion of the notice process, including any attempts to obtain valid mailing addresses
28

1 for and re-sending of any returned Notice Packets, as well as the number of valid requests for
2 exclusion and objections that the Settlement Administrator received.

3 **Section 3.04: Responses to Notice**

4 **a. Class Member Disputes**

5 If any Class Member disagrees with Defendant's records as to his or her Qualifying
6 Workweeks during the Class Period as reflected in the Notice Packet, the Class Member shall set
7 forth in writing the Qualifying Workweeks he/she claims to have worked during the Class Period
8 and submit such writing to the Settlement Administrator by the Response Deadline, along with any
9 supporting documentation. The Notice will also provide a method for the Class Member to challenge
10 the employment data on which his or her Individual Settlement Payment is based. The Settlement
11 Administrator shall contact the Parties regarding the dispute and the Parties will work in good faith
12 to resolve it. If the Parties are unable to resolve the dispute, the Settlement Administrator will be the
13 final arbiter of the Qualifying Workweeks for each Class Member during the Class Period based on
14 the information provided to it.

15 **b. Requests for Exclusion from Class**

16 In order for any Class Member to validly exclude himself or herself from the Class and this
17 Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class
18 Member or his or her authorized representative, and must be sent to the Settlement Administrator,
19 postmarked no later than the Response Deadline (or fifteen (15) days after the Settlement
20 Administrator re-mails the Notice to the Class Member, whichever is later). The Notice Packet shall
21 contain instructions on how to validly exclude himself or herself from the Class and this Settlement
22 (*i.e.*, opt out), including the language to be used in a request for exclusion. The date of the initial
23 mailing of the Notice Packet, and the date the signed request for exclusion was postmarked, shall be
24 conclusively determined according to the records of the Settlement Administrator. Any Class
25 Member who timely and validly requests exclusion from the Class and this Settlement will not be
26 entitled to any Individual Settlement Payment, will not be bound by the terms and conditions of this
27 Agreement, and will not have any right to object, appeal, or comment thereon.

28

1 Any Class Member who fails to timely submit a request for exclusion shall automatically be
2 deemed a Class Member whose rights and claims with respect to the issues raised in the Action are
3 determined by the Court's Final Order Approving Settlement of Class Action, and by the other
4 rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the Action
5 and/or released in this Agreement will be extinguished.

6 Should the number of opt-outs or requests for exclusion equal or exceed ten Percent (10%),
7 the monetary settlement terms of this Agreement shall be null and void and the Parties shall return
8 to settlement discussions to renegotiate those terms.

9 **c. Objections to Settlement**

10 For any Class Member to object to this Agreement, or any term of it, the person making the
11 objection must not submit a request for exclusion (*i.e.*, must not opt out), and should send to the
12 Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15)
13 days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later),
14 a written statement of the grounds of objection, signed by the objecting Class Member or his or her
15 attorney, along with all supporting papers. The date of the initial mailing of the Notice Packet, and
16 the date the signed objection was postmarked, shall be conclusively determined according to the
17 records of the Settlement Administrator. The Settlement Administrator shall send any objections it
18 receives to Defense Counsel and Class Counsel within three (3) business days of receipt. Class
19 Members may also appear at the final approval hearing to object. The Court retains final authority
20 with respect to the consideration and admissibility of any Class Member objections.

21 **d. Encouragement of Class Members**

22 The Parties to this Agreement and the counsel representing such Parties shall not, directly or
23 indirectly, through any person, encourage or solicit any Class Member to exclude him or herself from
24 this Settlement (opt out), or to object to it. However, Class Counsel may respond to inquiries from
25 Class Members.

26 **e. Right of Plaintiff to Adjust Gross Settlement Amount**

27 Defendant has estimated the number of Class Members as approximately 200. If the number
28 of workweeks exceeds 10,230 by more than 5%, the GSA will increase pro rata per additional class

1 member or additional workweek, whichever is greater. In the event the number of workweeks
2 increases by ten percent (10%) or more (or, 11,253 workweeks), Defendant shall have the sole right
3 to either accept the increase to the GSA or cut off the class period on the day the workweeks reach
4 11,253.

5 **Section 3.05: Final Fairness and Approval Hearing**

6 On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final
7 Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement
8 and determine whether the Court should give it final approval, and (2) consider any objections made
9 and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the
10 Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a
11 Proposed Final Order Approving Settlement of Class Action.

12 **Section 3.06: Settlement Payment Procedures**

13 **a. Settlement Amount**

14 In exchange for the Released Claims set forth in this Agreement, and the class representative's
15 separate, signed individual waiver and release of all claims, Defendant agrees to pay the Gross
16 Settlement Amount in the amount of Two Hundred Fifty Thousand Dollars and Zero Cents
17 (\$250,000.00), subject to a pro rata increase under the condition set forth in Section 3.04(e). The
18 Gross Settlement Amount includes all Individual Settlement Amounts to Participating Class
19 Members, all administration costs, Class Counsel's attorney's fees and costs, PAGA Settlement
20 Amount, and the Incentive Payments.

21 Within ten (10) calendar days after the Court signs the Final Order, Defendant shall transfer
22 the Gross Settlement Amount plus Defendant's share of employer-side payroll taxes, as set forth
23 herein, into a QSF established by the Settlement Administrator either directly or by sending the funds
24 to the Settlement Administrator to be deposited and distributed. The Settlement Administrator will use
25 these funds to fund payment of the Individual Settlement Payments to Participating Class Members,
26 Class Counsel's attorneys' fees and costs, the Incentive Awards, the LWDA Payment, and the
27 Settlement Administration Costs.

28

1 Within ten (10) calendar days after receiving Defendants' final payment, funding the Gross
2 Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement Payments
3 to Participating Class Members, Class Counsel's attorneys' fees and costs, LWDA Payment, the
4 Incentive Awards, and employer and employee tax withholdings applicable to the Net Settlement
5 Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a
6 search based on the National Change of Address Database to update and correct for any known or
7 identifiable address changes.

8 **b. Payment of Attorneys' Fees and Costs**

9 Class Counsel shall submit an application for an award of attorneys' fees of up to one-third
10 of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is Eighty-
11 Three Thousand, Three Hundred Thirty-Three and Thirty-Three Cents (\$83,333.33). Class Counsel
12 shall submit an application for an award of costs not to exceed Fifteen Thousand Dollars
13 (\$15,000.00). Such application for attorneys' fees and costs shall be heard by the Court at the Final
14 Fairness and Approval Hearing. Defendant shall not object to or oppose any such application in these
15 amounts. Class Counsel shall serve Defendant with copies of all documents submitted in support of
16 their application for an award of attorneys' fees and costs.

17 Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the
18 Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys'
19 fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs,
20 and expenses related to the investigation, prosecution, and settlement of the Action incurred through
21 the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees
22 and/or costs that Class Counsel requests, the difference between the requested and awarded amounts
23 will be reallocated to the Net Settlement Amount.

24 **c. Payment of Settlement Administration Costs**

25 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and
26 shall not constitute payment to any Participating Class Member(s). The amount shall not exceed
27 Seven Thousand Dollars (\$7,000.00).

28

1 **d. Payment of Incentive Award to Named Plaintiff**

2 Subject to Court approval, the Named Plaintiff shall each receive an Incentive Award of up
3 to Ten Thousand Dollars (\$10,000.00) , the request for which Defendant will not object to or oppose.
4 The Incentive Awards shall be paid out of the Gross Settlement Amount and shall not constitute
5 payment to any Participating Class Member(s) other than Named Plaintiff. To the extent that the
6 Court approves less than the amount of incentive award that Class Counsel request, the difference
7 between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

8 Because it is the intent of the Parties that the Incentive Awards represent payment to Named
9 Plaintiff for their service to the Class Members, and not wages, the Settlement Administrator will not
10 withhold any taxes from the Incentive Awards. The Incentive Awards will be reported on a Form
11 1099, which the Settlement Administrator will provide to Named Plaintiff and to the pertinent taxing
12 authorities as required by law.

13 **e. Payment to the Labor and Workforce Development Agency**

14 In consideration of claims made under PAGA, Class Counsel will request that the Court
15 approve allocation of Twenty Thousand Dollars (\$20,000) of the Gross Settlement Amount to these
16 claims. Seventy-five percent (75%) of this payment will be paid to the California Labor and
17 Workforce Development Agency (“LWDA Payment”), and twenty-five percent (25%) will be paid
18 to the Net Settlement Amount for distribution to PAGA Group Members. Defendant will not oppose
19 this request. The entire PAGA Settlement Amount will be paid out of the Gross Settlement Amount.
20 The Court’s adjustment, if any, of the amount allocated to Named Plaintiffs’ PAGA claim in the
21 Action, will not invalidate this Agreement.

22 **f. Payment of Individual Settlement Payments to Participating Class Members**

23 The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement
24 Payments. The Parties agree that the Net Settlement Amount shall be divided between all
25 Participating Class Members in proportion to the number of individual Qualifying Workweeks for
26 each Class Member. To calculate the minimum amount each Class Member will receive based on
27 their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total
28 number of Qualifying Workweeks by all Class Members during the Class Period and then allocated

1 on a pro rata basis. Qualifying Workweeks will be rounded up to the next whole integer. Each Class
2 Member's approximate Individual Settlement Payment amount will be included in his or her Notice
3 Packet. After final approval by the Court, the Net Settlement Amount will be dispersed to
4 Participating Class Members (those who did not exclude themselves) on a pro rata basis based on the
5 individual Qualifying Workweeks worked during the Class Period by each Participating Class
6 Member.

7 Each Individual Settlement Payment will represent wages and penalties allocated using the
8 following formula: 30% allocated to wages; 70% allocated to interest and also allocated to penalties.

9 The amounts paid as wages shall be subject to all tax withholdings customarily made from an
10 employee's wages and all other authorized and required withholdings and shall be reported by W-2
11 forms. The employer-side taxes will be paid separate from and in addition to the Gross Settlement
12 Amount. The amounts paid as penalties and interest shall be subject to all authorized and required
13 withholdings other than the tax withholdings customarily made from employees' wages and shall be
14 reported by IRS 1099 forms.

15 No later than ten (10) business days after receiving the Gross Settlement Amount from
16 Defendant, the Settlement Administrator shall prepare and mail the checks for the Individual
17 Settlement Payments to Participating Class Members. Individual Settlement Payments paid from the
18 Net Settlement Amount allocated to wages will be reduced by applicable employer and employee
19 tax withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of
20 the Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 to the
21 extent required by law for the interest and penalty portions of the Individual Settlement Payments.
22 Participating Class Members shall have 180 days from the date their Individual Settlement Payment
23 checks are dated to cash their Settlement checks. Any checks that are not cashed upon the expiration
24 of that 180-day time period will be void, and the uncashed funds shall be paid to the State Controller
25 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

26 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
27 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
28 a mass search on LexisNexis or a comparable databases based on set criteria and, if another address

1 is identified, the Settlement Administrator shall mail the check to the newly identified address. If the
2 Settlement Administrator is unable to obtain a valid mailing address through this process, the
3 Settlement Administrator will tender the funds from the undeliverable checks to the State Controller
4 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

5 **g. Default on Payment.**

6 Defendant's failure to fund the Gross Settlement Amount within ten (10) calendar days after
7 the date that the Court grants final approval of the Settlement shall be considered a default. In the
8 event Defendant fails to timely fund the Gross Settlement Amount, the Settlement Administrator will
9 provide notice to Class Counsel and Defendant's counsel within three (3) business days of the missed
10 payment. Thereafter, Defendant will have seven (7) days to cure the default and tender payment to
11 the Settlement Administrator. In the event Defendant fails to cure the default within the times set
12 forth herein, Named Plaintiff may elect to enter judgment against Defendant, on an ex parte basis,
13 for the balance of the unpaid Gross Settlement Amount to date, and Named Plaintiff will be entitled
14 to recover interest at ten percent (10%) per year from the due date for such payment and reasonable
15 attorneys' fees and costs.

16 **h. No Credit Toward Benefit Plans.**

17 The Individual Settlement Payments made to Participating Class Members under this
18 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to
19 calculate any additional benefits under any benefit plans to which any Class Members may be
20 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase
21 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
22 intention that this Agreement will not affect any rights, contributions, or amounts to which any Class
23 Members may be entitled under any benefit plans.

24 **ARTICLE IV**

25 **LIMITATIONS ON USE OF THIS SETTLEMENT**

26 **Section 4.01: No Admission**

27 Defendant disputes the allegations in the Action and disputes that, but for this Settlement, a
28 Class should not have been certified in the Action. This Agreement is entered into solely for the

1 purpose of settling highly disputed claims. Nothing in this Agreement is intended nor will be
2 construed as an admission of liability or wrongdoing by Defendant.

3 **Section 4.02: Non-Evidentiary Use**

4 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor
5 the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or
6 deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties,
7 including but not limited to, evidence of a presumption, concession, indication, or admission by any
8 of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or
9 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further
10 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this
11 Agreement or for Defendant to establish that a Class Member has resolved any of his or her claims
12 released through this Agreement.

13 **Section 4.03: Nullification**

14 The Parties have agreed to the certification of the Class encompassing all claims alleged in
15 the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason
16 fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this
17 Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order
18 is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the
19 Action in its entirety, then (i) this Agreement shall be considered null and void; (ii) neither this
20 Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all
21 Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had
22 been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to
23 stipulate to class certification of all causes of action pled in the Action as part of the Settlement will
24 have no bearing on, and will not be admissible in connection with, the issue of whether the Class
25 should be certified by the Court in a non-settlement context in this Action or any other action, and in
26 any of those events, Defendant expressly reserves the right to oppose certification of the Class.

27 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the
28 Gross Settlement Amount shall not be distributed pending the completion of the appeal.

1 **ARTICLE V**

2 **RELEASES**

3 **Section 5.01: Released Claims by Class Members**

4 Upon the date Defendant transfers the Gross Settlement Amount, Named Plaintiff and
5 Participating Class Members who do not opt out of the Settlement, release the Released Parties from
6 any and all claims alleged in Named Plaintiff's Operative Complaint, during the Class Period,
7 including but not limited to (1) failure to pay minimum wages (2) failure to pay overtime wages (3)
8 failure to provide meal periods (4) failure to authorize or permit rest periods (5) failure to reimburse
9 business expenses (6) failure to provide accurate itemized wage statements (7) failure to pay all
10 wages timely during employment (8) failure to pay wages upon separation of employment (9)
11 violation of California Business and Professions Code §§17200, *et seq.*, based on the preceding
12 claims ("Released Claims").

13 **Section 5.02: Released Claims by PAGA Group Members**

14 Upon the date of funding the GSA, the State of California and PAGA Group Members release
15 the Released Parties from all claims exhausted in Plaintiff's notice(s) sent to the LWDA and alleged
16 in the operative complaint including the claim for Enforcement of Labor Code § 2698 et seq, which
17 arose during the PAGA Period, regardless of whether PAGA Group Members opt out of the Class
18 Settlement.

19 **Section 5.03: Named Plaintiff's Release of Unknown Claims**

20 Upon the date of funding the GSA, Named Plaintiff, waives, releases, acquits, and forever
21 discharges the Released Parties from any and all claims, actions, charges, complaints, grievances,
22 and causes of action, of any nature arising from Named Plaintiff's employment with Defendant,
23 whether known or unknown, which exist or may exist as of the Parties' execution of this Agreement.

24 Section 1542 of the California Civil Code provides as follows:

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

1 Plaintiff's general release provided herein is made with an express waiver and relinquishment
2 of any claim, right, or benefit under California Civil Code § 1542. Plaintiff shall sign a separate,
3 comprehensive waiver and release of claims.

4 **ARTICLE VI**

5 **MISCELLANEOUS PROVISIONS**

6 **Section 6.01: Amendments or Modification**

7 The terms and provisions of this Agreement may be amended or modified only by an express
8 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel,
9 and approved by the Court.

10 **Section 6.02: Assignment**

11 None of the rights, commitments, or obligations recognized under this Agreement may be
12 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written
13 consent of each other Party and their respective counsel. The representations, warranties, covenants,
14 and agreements contained in this Agreement are for the sole benefit of the Parties under this
15 Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

16 **Section 6.03: Governing Law**

17 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
18 shall be determined, in accordance with the laws of the State of California, without regard to conflicts
19 of laws.

20 **Section 6.04: Entire Agreement**

21 This Agreement, including the Exhibits referred to herein, which form an integral part hereof,
22 contains the entire understanding of the Parties with respect to the subject matter contained herein.
23 In case of any conflict between text contained in Articles I through VI of this Agreement and text
24 contained in the Exhibits to this Agreement, the former (*i.e.*, Articles I through VI) shall be
25 controlling, unless the Exhibits are changed by or in response to a Court order. There are no
26 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject
27 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement
28 supersedes all prior agreements and understandings among the Parties with respect to the settlement

1 of the Action, including correspondence between Class Counsel and Defense Counsel and drafts of
2 prior agreements or proposals.

3 **Section 6.05: Waiver of Compliance**

4 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
5 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived
6 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective
7 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or
8 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or
9 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

10 **Section 6.06: Counterparts and Fax/PDF Signatures**

11 This Agreement, and any amendments hereto, may be executed in any number of counterparts
12 and any Party and/or their respective counsel may execute any such counterpart, each of which when
13 executed and delivered shall be deemed to be an original. All counterparts taken together shall
14 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original
15 signature.

16 **Section 6.07: Meet and Confer Regarding Disputes**

17 Should any dispute arise among the Parties or their respective counsel regarding the
18 implementation or interpretation of this Agreement, a representative of Class Counsel and a
19 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior
20 to submitting such disputes to the Court.

21 **Section 6.08: Agreement Binding on Successors**

22 This Agreement will be binding upon, and inure to the benefit of, the successors in interest
23 of each of the Parties.

24 **Section 6.09: Cooperation in Drafting**

25 The Parties have cooperated in the negotiation and preparation of this Agreement. This
26 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,
27 was the drafter or participated in the drafting of this Agreement.

28

1 **Section 6.10: Fair and Reasonable Settlement**

2 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of
3 the Action and have arrived at this Agreement through arm's-length negotiation and in the context
4 of adversarial litigation, taking into account all relevant factors, current and potential. The Parties
5 further believe that the Settlement is and is consistent with public policy, and fully complies with
6 applicable law.

7 **Section 6.11: Headings**

8 The descriptive heading of any section or paragraph of this Agreement is inserted for
9 convenience of reference only and does not constitute a part of this Agreement and shall not be
10 considered in interpreting this Agreement.

11 **Section 6.12: Notice**

12 Except as otherwise expressly provided in the Agreement, all notices, demands, and other
13 communications under this Agreement must be in writing and addressed as follows:

14 *To Named Plaintiff and the Class:*
15 Kashif Haque
16 Samuel A. Wong
17 Jessica L. Campbell
18 Namrata Kaur
19 AEGIS LAW FIRM, PC
20 9811 Irvine Center Drive, Suite 100
 Irvine, California 92618
 Telephone: (949) 379-6250
 Facsimile: (949) 379-6251

21 And

22 *To Defendant:*
23 Shannon Marie Jenkins
24 TREDWAY, LUMSDAINE & DOYLE LLP
25 2010 Main Street, Suite 1000
26 Irvine, California 92614
27 Telephone: (909) 756-0684
28 Facsimile: (866) 298-9254

1 **Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction**

2 To the extent consistent with class action procedure, this Agreement shall be enforceable by
3 the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court
4 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the
5 liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the
6 terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall
7 retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest
8 extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more
9 of the Parties institutes any legal action or other proceeding against any other Party or Parties to
10 enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover
11 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness
12 fees incurred in connection with any enforcement actions.

13 **Section 6.14: Mutual Full Cooperation**

14 The Parties agree fully to cooperate with each other to accomplish the terms of this
15 Agreement, including but not limited to the execution of such documents, and the taking of such
16 other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties
17 to this Agreement shall use their best efforts, to effectuate and implement this Agreement and its
18 terms. In the event the Parties are unable to reach agreement on the form or content of any document
19 needed to implement the Settlement, or on any supplemental provisions that may become necessary
20 to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

21 **Section 6.15: Authorization to Act**

22 Class Counsel warrants and represents that they are authorized by Named Plaintiff, and
23 Defense Counsel warrants that they are authorized by Defendant, to take all appropriate action
24 required to effectuate the terms of this Agreement, except for signing documents, including but not
25 limited to this Agreement, that are required to be signed by the Parties themselves. Defendant
26 represents and warrants that the individual executing this Agreement on its behalf has the full right,
27 power, and authority to enter into this Agreement and to carry out the transactions contemplated
28 herein.

1 **Section 6.16: No Reliance on Representations**

2 The Parties have made such investigation of the facts and the law pertaining to the matters
3 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,
4 on any statement, promise, or representation of fact or law, made by any of the other parties, or any
5 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted
6 rights, or with regard to the advisability of entering into and executing this Agreement, or with respect
7 to any other matters. No representations, warranties, or inducements, except as expressly set forth
8 herein, have been made to any party concerning this Agreement.


9 **EXECUTION BY PARTIES AND COUNSEL**

10 The Parties and their counsel hereby execute this Agreement.

11
12
13 Dated: 3/28/2023 | 10:07 PM PDT

FREDERICK SIMMONDS

14
15

By: 
Named Plaintiff

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17
18 Dated: May 3, 2023

TRIAGE PARTNERS CA, LLC

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By: Patricia Dominguez
Patricia Dominguez (May 3, 2023 16:21 EDT)
(Signature)
Patricia Dominguez
(Printed Name)
CEO
(Title)

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27 **APPROVED AS TO FORM ONLY:**

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Dated: March 28, 2023

AEGIS LAW FIRM, PC

By: *Namrata Kaur*
Namrata Kaur

Attorneys for Named Plaintiff Frederick Simmonds

Dated: May 3, 2023

TREDWAY, LUMSDAINE & DOYLE LLP

By: *Shannon Marie Jenkins, Esq.*
Shannon Marie Jenkins

Attorney for Defendant Triage Partners CA, LLC

EXHIBIT A

THIS IS AN IMPORTANT COURT APPROVED NOTICE. READ CAREFULLY.

Frederick Simmonds v. Triage Partners CA, LLC
San Bernardino Superior Court
Case No. CIVSB2212599

If you worked for Triage Partners CA, LLC, at any time from June 16, 2018 until January 17, 2023, a settlement of a class action lawsuit may affect your rights.

This is a court-authorized notice. It is not a solicitation from a lawyer.

- A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Frederick Simmonds v. Triage Partners CA, LLC.*, Case No. CIVSB2212599 (San Bernardino Court) (the “Lawsuit”). The purpose of this Notice of Class Action Settlement (“Notice”) is to briefly describe the Lawsuit, and to inform you of your rights and options in connection with the Lawsuit and the proposed settlement.
- The Court has preliminarily approved a class action settlement with Defendant Triage Partners CA, LLC (“Defendant”), which will affect all non-exempt employees who worked for Defendant as non-exempt employees in California at any time between June 16, 2018 until January 17, 2023 (the “Class”).
- If the Court grants final approval of the Settlement, there may be money available to you.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
PARTICIPATE IN THE SETTLEMENT – <u>NO ACTION REQUIRED</u>	Stay in this Lawsuit. Receive a payment. Cannot pursue your own lawsuit. By doing nothing, you become part of the Class and will collect a settlement award as detailed below. But you will not be able to bring your own lawsuit against Defendant for wage-and-hour violations that relate to the claims brought in this Lawsuit.
OBJECT TO THE SETTLEMENT	Stay in this Lawsuit. Receive a payment. Object. Cannot pursue your own lawsuit. To object to the Settlement, you must write to the Settlement Administrator about why you do not like the settlement. You will remain a member of the Class, and if the Court approves the Settlement, you will be bound by the terms of the settlement in the same way as Class Members who do not object.
ASK TO BE EXCLUDED	Get out of this Lawsuit. Receive a smaller or no payment from it. Keep your right to pursue your own lawsuit for damages. If you ask to be excluded from the Settlement, you keep your right to sue Defendant separately about the legal claims in this Lawsuit, except as to the claim under the California Private Attorneys General Act (“PAGA”). If you choose this option, you must exclude yourself, in writing, from the Settlement. As a result, you may receive no payment at all. At most, you will receive a very small payment for resolution of the PAGA claim if you a member of the PAGA Group, which is a subset of the Class.

- **Regardless of the option you choose, you will not be retaliated against for exercising your rights.** To object to the Settlement or to ask to be excluded, you must act before [DATE].
- **Any questions?** Read on or contact the Settlement Administrator listed below at 1-XXX-XXX-XXXX.

BASIC INFORMATION

1. Why did I get this notice?

Defendant's records show that you worked for Defendant in California as a non-exempt employee at some point between June 16, 2018 until January 17, 2023.

The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable. Any final determination of those issues will be made at the final hearing. You have legal rights and options that you may exercise as part of this settlement.

The Court has not made any decision on the claims or defenses. The settlement represents a compromise and settlement of highly disputed claims. Nothing in the settlement is intended or will be construed as an admission by Defendant that Mr. Simmond's claims have merit or that Defendant has any liability to Plaintiff or the Class on those claims.

2. What is this lawsuit about?

In this Lawsuit, Plaintiff Frederick Simmonds ("Plaintiff") claims that Defendant: (1) failed to pay minimum wages; (2) failed to pay overtime, (3) failed to provide meal periods; (4) failed to permit rest breaks; (5) failed to provide reimbursements for necessary business expenses; (6) failed to provide accurate itemized wage statements; (7) failed to pay wages timely during employment; (8) failed to pay all wages due upon separation of employment; (9) violated Business and Professions Code §§ 17200, et seq. (10) Plaintiff argued that these claimed violations entitled Plaintiff to recover civil penalties to be split 75% to the State of California and 25% to certain employees pursuant to PAGA. Plaintiff also claimed entitlement to restitution, interest, attorneys' fees, and costs. You can read Plaintiff's allegations as stated in the First Amended Complaint, which is available at [settlement administrator website].

Throughout the litigation, Defendant has denied—and continues to deny—the factual and legal allegations in the case. Defendant does not believe that it violated any law or regulation relating to how it paid employees, when it paid employees, how much it paid employees, or how wage statements displayed information. Defendant denies any wrongdoing and asserts that their conduct at all times complied with the law. Defendant further denies that it owes the monies claimed in the Lawsuit. Both Mr. Simmonds and Defendant have voluntarily agreed to the terms of a negotiated settlement in order to avoid the risks, burdens, and expense of continued litigation.

3. What is a class action and who is involved?

In a class action lawsuit such as this, a person called the "Class Representative" sues on behalf of other people who may have similar claims. The people together are a "Class" or "Class Members." The person who is the Class Representative is also called the plaintiff. The companies sued are called the defendant. In class action litigation, one court resolves the issues for everyone in the Class in one lawsuit, except for those people who choose to exclude themselves from the Class.

This lawsuit also includes a “Private Attorney General” (PAGA) claim where the Plaintiff is attempting to recover penalties for the State of California. In a PAGA action, the State receives 75% of the civil penalties, while employees receive 25%. This settlement will resolve all claims by the State for civil penalties arising from claims made by Plaintiff in the Lawsuit during the period of June 16, 2021 to January 17, 2023 and non-exempt employees covered by the Lawsuit will be barred from bringing another lawsuit on behalf of the State for such penalties.

4. Why is this Lawsuit a class action?

For settlement purposes only, Plaintiff and Defendant agreed that this case can proceed as a class action and to ask the Court to approve the settlement for the Class. The Court has not ruled on the merits of the case, and the decision to certify Class for settlement purposes should not be viewed as a prediction or agreement that Plaintiff or the Class would ultimately prevail on the merits of the action.

5. What are the terms of the proposed Settlement?

Subject to final Court approval, the major terms of the Settlement are as follows:

1. Defendant has agreed to pay \$250,000.00 to settle the claims made in this lawsuit. This amount is also known as the “Gross Settlement Amount”.
2. Plaintiff has agreed to release all of her claims in this lawsuit against Defendant.
3. **Class Settlement Payments:** Plaintiff seek the following deductions from the \$250,000.00 Gross Settlement Amount:
 - a. Up to one-third (1/3) of the Gross Settlement Amount (currently equal to \$83,333.33) for Class Counsel’s attorneys’ fees.
 - b. Up to \$15,000.00 for reimbursement of Class Counsel’s litigation costs.
 - c. An incentive award of up to \$10,000.00 to Plaintiff Frederick Simmonds for filing the Lawsuit, performing work in connection with the Lawsuit, and undertaking the risks of filing the Lawsuit.
 - d. Up to \$7,000.00 to cover the costs of the Settlement Administrator.
 - e. Payment of \$20,000.00 to the California Labor and Workforce Development Agency for release of Private Attorneys General Act claims.

If the Court approves the requested deductions, there will be approximately \$114,666.67 remaining to be distributed. These remaining funds will be referred to as the “Net Settlement Amount.” Any amounts not requested or awarded by the Court will be included in the Net Settlement Amount. The Net Settlement Amount will be distributed to Class Members who do not request exclusion (the “Settlement Class Members”) on a pro rata basis according to the number of weeks they worked during the Class Period, and whether they signed individual settlements.

PAGA Settlement Payments. A portion of the Gross Settlement Amount in the amount of \$5,000 will be set aside for Class Members who worked for Defendant in California at some point between June 16, 2021 to January 17, 2023 (“PAGA Group”). If you are a member of the PAGA Group, you will receive a pro rata share of the PAGA Group Payment, regardless of whether you opt-out of the settlement. You will not be able to pursue any claim on behalf of the State for such penalties.

Settlement Payments Generally. If a settlement check remains uncashed, the check will become void and the uncashed funds shall be paid to the State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

Your estimated settlement payment is listed in Section 8 of this Notice. Applicable taxes will be withheld from your payment.

WHO IS IN THE CLASS?

6. Am I part of this Class?

The “Class” includes: All non-exempt employees who worked for Defendant in California at any time between June 16, 2018 until January 17, 2023 (the “Class Period”).

7. I’m still not sure if I am included.

If you still are not sure whether you are included in the Class, you can get free help by contacting Phoenix Class Action Settlement Administrators, the “Settlement Administrator,” at the designated phone number for this matter at (800) XXX-XXXX or by calling or writing the lawyers representing the Class in this case (“Class Counsel”), at the phone number or address listed in Section 19.

8. What is my approximate Individual Settlement Payment?

According to payroll records maintained by Defendant, the total number of weeks you worked in California for Defendant as a non-exempt employee during the Class Period is [REDACTED].

Based on information provided above and anticipated court-approved deductions, your share of the settlement is estimated to be \$ [REDACTED], less applicable taxes and withholdings.

You do not need to do anything further to receive your Individual Settlement Payment, other than to ensure that the Settlement Administrator has an accurate mailing address for you. It is important that you contact and inform the Settlement Administrator listed in Section 16, below, of any changes to your mailing address for timely payment.

Disputing Your Payment Amount

If you believe your total weeks worked during the Class Period shown above are not correct, you may send a letter to the Settlement Administrator indicating what you believe is correct by no later than [DATE]. You should also send any documents or other information that supports your belief. The Settlement Administrator will attempt to resolve any dispute based on Defendant’s records and any

information you provide. Any disputes not resolved by the Settlement Administrator will be resolved by the Court.

9. What rights am I releasing if I participate in the Settlement?

If the Court grants final approval of the Settlement and you do not opt out of the Settlement, you will be deemed to have released Defendant (“Released Parties”) from all claims, rights, demands, damages, liabilities and causes of action, whether known or unknown, contingent or vested, state or federal, in law or in equity, arising at any time during the Class Period alleged in the operative complaint or that could have been alleged based on the facts pleaded, along with related claims and all associated penalties from June 16, 2018 until January 17, 2023 (“Released Claims”). All Settlement Class Members shall be bound by the Settlement Class Released Claims, unless they formally opt out. Further details of the release are available on the Settlement Administrator’s website.

Additionally, if you worked during the period of June 16, 2021 to January 17, 2023, you are a PAGA Group Member and you will also release the right to bring a claim for civil penalties on behalf of the State (and other employees) based on the same facts or theories as the Settlement Class Released Claims, which arose during the PAGA Period, even if you have formally opted-out of being a Settlement Class Member.

10. How do I object to the Settlement?

If you are a Class Member and would like to object to the Settlement, you must not submit a request for exclusion (*i.e.*, must not opt out). In order to object, you may mail a written objection to the Settlement Administrator at the address in Section 16 below. To be valid, your objection must: (1) state your full name, address, and telephone number and the last four digits of your Social Security Number; (2) state the grounds for the objection; (3) be signed by you; and (4) indicate whether you intend to appear at the Final Approval Hearing. You can also hire an attorney at your own expense to represent you in your objection. Your written objection to the Settlement Administrator must be postmarked on or before [DATE]. You may appear in person at the Final Fairness and Approval Hearing to present any oral objections even if you do not submit a timely written objection.

11. Why would I ask to be excluded?

You have the right to exclude yourself from the Class (and the class settlement). If you exclude yourself from the Class—sometimes called "opting-out" of the Class – you won't get any money or benefits from the class settlement. However, you may then be able to sue or continue to sue Defendant for your own claims if permitted by law. If you exclude yourself, you will not be legally bound by the Court's ruling in this Lawsuit, except for the release by PAGA Group Members, as explained above. Whether or not you submit a Request for Exclusion, you will still receive a small PAGA Group Payment if you are determined to be a part of the PAGA Group.

12. How do I ask to be excluded from the Class?

If you are a Class Member and would like to exclude yourself from the Class (“opt-out”), you, or your authorized representative, need to submit a written statement requesting exclusion from the Class to the Settlement Administrator at the address in Section 16 below. The statement must be signed and dated by you or your authorized representative and must be postmarked on or before [DATE]. To be valid,

your request for exclusion must: (1) state your full name, address, and telephone number and the last four digits of your Social Security Number; (2) contain a clear statement that you are requesting to opt out of, or be excluded from, the Settlement in the *Debra Ann Gonzalez v. Hayward F2, Inc., et al.* action; and (3) be signed by you.

Any Class Member who requests to be excluded from the Class will not be entitled to any recovery under the Settlement and will not be bound by the Settlement or have any right to object, appeal, or comment on the Settlement. Class Members who fail to submit a valid and timely request for exclusion will be bound by all terms of the Settlement and any ruling from the Court to give final approval of the Settlement. But Class Members cannot opt out of releasing PAGA claims, as those claims belong to the State of California and Plaintiff has agreed to release those claims by acting as a proxy for the State.

THE LAWYERS REPRESENTING YOU

13. Who are the attorneys representing the Parties?

Lawyers for the Class

Samuel A. Wong (swong@aegislawfirm.com)
Kashif Haque (khaque@aegislawfirm.com)
Jessica L. Campbell (jcampbell@aegislawfirm.com)
Namrata Kaur (nkaur@aegislawfirm.com)
AEGIS LAW FIRM, PC
9811 Irvine Center Drive, Suite 100
Irvine, CA 92618
Tel: 949-379-6250

Defendant's Lawyers

TREDWAY, LUMSDAINE & DOYLE LLP
Shannon Marie Jenkins
2010 Main Street, Suite 1000
Irvine, California 92614
Telephone: (909)756-0684
Facsimile: (866) 298-9254
sjenkins@tldlaw.com

The Court has preliminarily decided that Aegis Law Firm, PC is qualified to represent you and all Class Members. The law firm's attorneys are experienced in handling similar cases against other employers. More information about this law firm, their practice, and their lawyers' experience is available at www.aegislawfirm.com.

14. How will the lawyers be paid?

As part of the Settlement with Defendant, Class Counsel has requested one-third of the Gross Settlement Amount (currently equal to \$83,333.33) in attorneys' fees, plus costs not to exceed \$15,000, to be paid from the Gross Settlement Amount to compensate Class Counsel for their work on this matter. You will not have to pay Class Counsel's fees and costs from your Individual Settlement Payment.

15. How will Mr. Simmonds be paid?

As part of the Settlement with Defendant, Mr. Simmonds attorneys have requested a payment of up to \$10,000.00 to be paid to Mr. Simmonds for his efforts in this matter during initial investigation, discovery, mediation and the like, while serving as Class Representative and taking on the burden and risks of litigation. This amount would be in addition to whatever he would receive as part of his pro rata share of the settlement sum.

THE SETTLEMENT, APPROVAL, AND PAYMENT PROCESS

16. Who is handling the Settlement Administration process?

Phoenix Class Action Settlement Administrators

[ADDRESS]

[PHONE NUMBER]

17. When is the Final Fairness and Approval Hearing and do I have to attend?

The Final Fairness and Approval Hearing has been set for [DATE], at [TIME] in Department 26 of the San Bernardino County Superior Court for the State of California, located at 247 W. Third Street, San Bernardino, CA 92415. You do not need to attend the hearing to be a part of the Settlement. However, if you wish to object to the Settlement, you may appear at the hearing. Please note that the hearing may be continued without further notice to the Class. Make sure you check the Court's website before attempting to come to Court in person. You may be required to appear only by phone or video, depending on the current safety requirements due to the pandemic.

18. When will I get money after the hearing?

The Court will hold a hearing on [DATE], to decide whether to approve the settlement. If the Court approves the settlement, then there may be appeals if anyone objects. It is always uncertain when these objections and appeals can be resolved, and resolving them can take time. If the Court approves the settlement and if you do not opt out, your individual payment set forth in Section 8 above is expected to be distributed after Defendant makes the payment to the Settlement Administrator. If there are no objections or appeals, Defendant will transfer the settlement funds and the Administrator will then distribute the funds. If there are objections or appeals, the payment can be delayed by at least 60 days, or even over a year. To check on the progress of the settlement, contact the Settlement Administrator or Class Counsel at the phone number or address listed in Section 19.

GETTING MORE INFORMATION

19. Are more details available?

For more information, the pleadings and other records in this litigation may be examined at any time during regular business hours at the records department office for the Superior Court of the State of California for San Bernardino, located at 247 W. Third Street, San Bernardino, CA 92415. You can also view the schedule of events and register of actions for the Lawsuit at the court's website: <https://www.sb-court.org>. Click "Online Services," then select "Case Information & Documents" and click "Accept". Then click on "Search" and select "Case Information". Then type "CIVSB2212599" in the "Case Number Search" section. Then, select "I'm not a robot" and click on "Search".

Any questions regarding this Class Notice or the Lawsuit may be directed to the Claims Administrator at the below address and telephone number. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact the Lawyers for the Class at the address, telephone number or email address set forth above. If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

Settlement Administrator:

Phoenix Class Action Settlement Administrators

[ADDRESS]

[PHONE NUMBER]

PLEASE DO NOT CALL OR WRITE TO THE COURT, OR TO ANY OF DEFENDANT'S MANAGERS, SUPERVISORS, OR DEFENDANT'S ATTORNEYS WITH QUESTIONS. ABOUT THIS NOTICE

EXHIBIT 2

Namrata Kaur

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Monday, June 12, 2023 9:29 AM
To: jenciso@aegislawfirm.com
Subject: Thank you for your Proposed Settlement Submission

06/12/2023 09:27:33 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm