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Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE**

DEAN PARSONS, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

LA SIERRA UNIVERSITY, a California
Non-Profit Corporation,

Defendant.

Case No.: CVR12000104

**DECLARATION OF JULIAN HAMMOND
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: September 2, 2021

Time: 8:30 a.m.

Reservation No: RES248472

Dept. S302

1 I, Julian Hammond, declare as follows:

2 **I. INTRODUCTION**

3 1. I am an attorney admitted to practice before the courts of the State of California and
4 California federal courts. I am also an active member of the Bar of the State of New York and of the
5 Washington State Bar Association.¹

6 2. I am the founding shareholder of the law firm HammondLaw, P.C. (“HammondLaw” or
7 “Class Counsel”) and counsel for the named Plaintiff Dean Parsons (“Plaintiff”), the individuals who,
8 from November 12, 2016 through to the date the Court grants preliminary approval (the “Adjunct Class
9 Period”), performed the duties of an Adjunct Faculty for Defendant La Sierra University (“Defendant”
10 or “LSU”) in California while not classified as hourly non-exempt employees (the “Adjunct Class”), and
11 the individuals who are current or former LSU employees in California who, from March 4, 2020 through
12 to the earlier of the date the Court grants preliminary approval or the date when LSU stops making
13 COVID reimbursement payments (the “Reimbursement Class Period”), worked remotely (the
14 “Reimbursement Class”). A copy of the Class Action Settlement Agreement is attached as **Exhibit 1**.

15 3. I have no knowledge of the existence of any conflict of interest between Class Counsel
16 and the Plaintiff, on the one hand, and any Class Member, on the other hand.

17 **II. ATTORNEY EXPERIENCE**

18 4. HammondLaw has been certified as Class Counsel or Co-Class Counsel in over 50 wage
19 and hour class actions, representing thousands of class members, in the Superior Courts for the Counties
20 of Alameda, Los Angeles, Sacramento, San Diego, San Francisco, Solano, Santa Clara, Monterey, San
21 Joaquin, Placer, Orange, Contra Costa, and San Bernardino, and in federal District Courts in California
22 in diversity jurisdiction cases based on state law, over the last ten years. In addition, HammondLaw is
23 putative Class Counsel in at least 25 pending actions in California state and federal Courts, some of which
24 have been tentatively settled and/or preliminarily approved by the Courts, and several of which, like the
25 present case, are brought on behalf of part-time instructors or adjunct professors. My firm’s resume is
26 attached as **Exhibit 2**.

27 5. I graduated from the University of New South Wales with a Bachelor of Commerce in
28 1995, from the University of Technology in Sydney with a Bachelor of Law *summa cum laude* in 1999,
and from New York University School of Law with a Masters of Law in 2001. I founded HammondLaw

¹ I am also admitted to practice as a Barrister-at-Law in both the New South Wales and Victorian Supreme Courts, located in Australia.

1 in 2010. Since the founding of HammondLaw, I have devoted a substantial percentage of my practice to
2 litigating cases involving wage and hour violations, the bulk of these being class actions. My firm has
3 represented tens of thousands of employees in wage and hour class actions under California law and in
4 California courts.

5 6. My two associates, Polina Brandler and Ari Cherniak, played an active role in this case.
6 Ms. Brandler received her B.A. in history *cum laude* from the Macaulay Honors College at the City
7 University of New York in 2005, and her J.D. from the Benjamin N. Cardozo School of law in 2009.
8 While in law school, Ms. Brandler was an intern for the Honorable Sandra L. Townes of the U.S. District
9 Court for the Southern District of New York. After graduation, she clerked for the Honorable Anita H.
10 Dymant of the Appellate Division of the Los Angeles Superior Court from 2009 to 2012. During her
11 time at HammondLaw, her practice has focused on wage and hour and consumer class actions. Ms.
12 Brandler is admitted to practice law in California and New York.

13 7. Mr. Cherniak received his B.S. in Philosophy *cum laude* from Towson University in 2007,
14 and his J.D. from Tulane Law School in 2011. While in law school, Mr. Cherniak earned a citation for
15 his extensive pro bono work in the Felony Trial Unit of Baltimore City Office of the Public Defender.
16 Since 2012, Mr. Cherniak's practice has focused on wage and hour and consumer class actions. Mr.
17 Cherniak is admitted to practice law in California, Washington, and Maryland.

18 8. In addition, Adrian J. Barnes is an independent attorney who has assisted my firm with
19 this case. Mr. Barnes earned his B.A in Rhetoric from the University of California at Berkeley in 2001,
20 his M.A. in English Literature from University College London in 2003, and his J.D. from Columbia
21 Law School in 2007. While at law school, Mr. Barnes was the President of the Columbia Chapter of the
22 Unemployment Action Center, the Co-President of the Columbia Law School Student Labor Action
23 Project, and a member of the Columbia Law Review. He also won Columbia's Emil Schlesinger prize
24 for the student most proficient in labor law. Since graduation, Mr. Barnes' practice has focused on
25 traditional labor law and wage and hour and consumer class actions. Mr. Barnes is admitted to practice
26 law in California.

27 9. This is one of a series of cases brought by HammondLaw, which has been representing
28 adjunct instructors in similar unpaid wage cases since 2016.

10. Since 2016, HammondLaw has represented adjunct instructors and secured court-
approved settlements in wage and hour class actions against Kaplan Higher Education in *Hillman v.*
Kaplan Higher Education LLC, No. 34-2017-00208078 (Sacramento Cty. Super. Ct. December 7, 2017),
Stanford University in *Pereltsvaig v. The Board of Trustees of the Leland Stanford Jr. University*, No.

1 17-CV-311521 (Santa Clara Cty. Super. Ct. January 4, 2019), CSU Fullerton in *Garcia v. CSU Fullerton*,
2 No. 30-2017-00912195-CU-OE-CXC (Orange Cty. Super. Ct. February 15, 2019), Concorde Career
3 Colleges in *McCoy v. Concorde Career Colleges, Inc.*, No. 30-2017-00936359-CU-OE-CXC (Orange
4 Cty. Super. Ct. July 2, 2019); DeVry University in *Stempien v. DeVry University, Inc.*, No. RG19002623
5 (Alameda Cty. Super. Ct. July 30, 2020); *Ott v. California Baptist University*, No. RIC1904830
6 (Riverside Cty. Super. Ct. January 26, 2021); *Granberry v. Azusa Pacific University*, Case No.
7 19STCV28949 (Cal. Sup. Ct. Los Angeles Cnty., March 5, 2021); *Miner, et al. v. ITT Educational*
8 *Services, Inc.*, Case No. 3:16-cv-04827-VC (N.D. Cal. March 19, 2021); *Harris-Foster v. University of*
9 *Phoenix*, Case No. RG19019028 (Alameda County Superior Court, March 17, 2021) *Morse v Fresno*
10 *Pacific University*, Case No. 19-CV-04350 (Merced County Superior Court, April 6, 2021) (approving
11 fees of 33% in \$1,534,725 wage and hour class action); *Peng v The President and Board of Trustees of*
12 *Santa Clara College*, Case No. 19CV348190 (Cal. Super. Ct. Santa Clara Cnty., April 21, 2021)
13 (approving fees of 33% in \$1,900,000 wage and hour class action); *Moore et al v Notre Dame De Namur*
14 *University*, Case No. 19-CIV-04765 (San Mateo County Superior Court, July 1, 2021) (approving fees
15 of 33% in \$882,880 wage and hour class action); and *Pillow et al. v. Pepperdine University*, Case No.
16 19STCV33162 (Los Angeles Superior Court, July 28, 2021). HammondLaw has also successfully
17 negotiated class action settlements on behalf of adjunct instructors in ten other cases in various stages of
18 settlement approval, and recently litigated one such case—*Gola v. University of San Francisco*, No.
19 CGC-18-565018 (San Francisco Super. Cty. Ct.)—all the way through trial. These cases challenged a
long-standing, industry-wide practice of classifying adjunct instructors as non-exempt and not paying
them for all hours worked. The cases have led to an overhaul of the classification and compensation
practices in the industry.

20 11. My experience and my firm's experience in the prosecution and resolution of wage and
21 hour class actions, and particularly wage and hour class actions on behalf of adjunct instructors, were
22 significant factors in this case proceeding to early mediation and favorable settlement.

23 III. OVERVIEW OF THE LITIGATION

24 12. Prior to initiating this Action, Plaintiff's Counsel investigated and researched the facts and
25 circumstances underlying the pertinent issues and applicable law. This investigation and research
26 included discussions and interviews between Plaintiff's Counsel, Plaintiff, and other Class Members
27 about their job duties and Defendant's compensation policies, review of Plaintiff's employee files, and
28 online research into the policies and/or practices of Defendant. Class Counsel further investigated
Defendant's organizational and operational structure in California and the manner in which Defendant

1 applies and enforces its employee policies applicable to Class Members. As a result of this in-depth
2 investigation, Class Counsel determined that Plaintiff's claims stemmed from Defendant's common
3 compensation scheme and policies and practices, and that the claims were well suited for class action
4 adjudication and potentially meritorious.

5 **a. Procedural History**

6 13. On November 12, 2020, Plaintiff filed this lawsuit in Riverside County Superior Court for
7 Defendant's (a) failure to pay wages for all hours worked as required under Labor Code §§ 226.2 and
8 1194 and IWC Wage Order No. 4-2001 § 4; (b) failure to authorize and permit paid rest breaks and pay
9 premium pay as required under Labor Code §§ 226.2 and 226.7 and Wage Order No. 4-2001, §§ 4, 12;
10 (c) failure to pay compensation due on discharge from employment in violation of Cal. Labor Code
11 §§ 201-203; (d) failure to issue accurate itemized wage statements in violation of Cal. Labor Code §§
12 226(a) and (e) and 226.2; (e) failure to reimburse business expenses in violation of Cal. Labor Code §
13 2802; and (f) unfair, unlawful, and/or fraudulent business practices in violation of Business & Professions
14 Code § 17200, *et seq.* ("UCL").

15 14. Plaintiff filed a First Amended Complaint on January 26, 2021, adding a PAGA claim for
16 the Labor Code violations alleged in the initial Complaint.

17 15. On February 2, 2021, Defendant filed an Answer to the FAC generally denying the
18 allegations therein and raising several affirmative defenses, including that Class Members are exempt
19 employees, that Defendant acted in good faith with respect to its employment policies/practices, and that
20 Plaintiff's claims are barred by the ministerial exception.

21 16. On June 14, 2021, the Parties participated in a mediation session with Louis Marlin, an
22 experienced mediator who has mediated numerous wage-hour class and PAGA actions. There, the parties
23 reached an agreement in principle.

24 17. Subsequently, on July 2, 2021, Plaintiff filed a Second Amended Complaint, adding a
25 cause of action for failure to provide meal breaks as required under Labor Code § 512 and Wage Order
26 No. 4-2001, § 11.

27 **b. Informal Discovery**

28 18. Shortly after Plaintiff filed his lawsuit, the parties agreed to attend a mediation and engage
in informal discovery. Defendant produced key data and documents as part of informal discovery
including: (a) exemplar Contract Teaching Agreements; (b) Plaintiff's personnel file; (c) exemplar wage
statements; (d) LSU's Faculty Handbook; (e) payroll calendars; (f) a letter to adjuncts announcing their
reclassification as hourly non-exempt and new time reporting and meal and rest break policies; (g) class

1 scheduling data for the Adjunct Class Period, including the number of terms taught by Adjunct CMs, the
2 number of courses taught by Adjunct CMs, and the number of classes of 3.5 hours or longer; and (h)
3 LSU's Covid expense reimbursement policy.

4 19. Plaintiff's counsel conducted their own investigation, gathering additional documents and
5 information. Plaintiff's counsel also conducted interviews and surveys of Adjunct CMs regarding unpaid
6 wages, which confirmed that adjunct instructors spent many hours working prior to the beginning of the
7 academic term.

8 20. From informal discovery, Plaintiff ascertained that LSU employed CMs on a term-by-
9 term basis pursuant to uniform employment contracts (Contract Teaching Agreements or "Contracts").
10 Plaintiff also learned that prior to the fall quarter 2020, LSU paid Adjunct CMs a fixed amount per course
11 based on the number of units taught and/or students taught, or a combination of units and students taught.
12 During that period, LSU did not require Adjunct CMs to track their hours worked. From documents
13 produced, Plaintiff also ascertained that while the Contracts began on specific dates (*i.e.* the first day of
14 classes), LSU required CMs to performed work prior to the start of classes, including to prepare syllabi
15 and other course materials, plan lectures, assignments, and assessments, and generally prepare to teach
16 their class before the start of classes. From the exemplar wage statements, Plaintiff confirmed that LSU
17 did not include any entries for hours actually worked by Adjunct CMs prior to fall 2020. Rather, LSU
18 simply inputted its own estimate for hours worked and an hourly rate which, multiplied by the estimated
19 hours, produced the equal biweekly payment required to produce the flat rate per-course amount provided
20 for in the respective Contract.

21 21. From informal discovery, Plaintiff's Counsel also learned and calculated data points
22 necessary to thoroughly evaluate Plaintiffs' Adjunct Class claims, including the class size, the total
23 number of courses taught during the Adjunct Class Period, number of wage statements issued, average
24 course rate paid, the effective average hourly rate paid and average daily rate, number of classes taught
25 that were over 3.5 hours, and the total number of days that Adjunct CMs were allegedly paid late (*i.e.*,
26 the total number of days between the end of the Contract and last paycheck) during the waiting times
27 penalties statutory period. Plaintiff's Counsel also learned and calculated necessary data points for the
28 Reimbursement Class claims, including the class size, the date from which members of the class were
required to work remotely, and LSU's policy regarding reimbursement.

c. Relevant Facts

22. Plaintiff was able to determine the following facts based upon reliable information we obtained through our own investigation or from Defendant in advance of mediation.

i. Defendant's Organization and Academic Calendar

23. La Sierra is a private, non-profit, university affiliated with the Seventh-day Adventist Church, located in Riverside, California. LSU is incorporated in California.

24. LSU offers more than 120 bachelor's, master's, and doctoral degree programs and has more than 2,300 students enrolled. Aside from its College of Arts & Sciences, La Sierra has schools of divinity, business, and education.

25. Defendant operates on a quarter system with the winter quarter running from approximately early January to mid-March, the spring quarter running from late-March or early-April to mid-June, the summer session running from mid-June to mid-September, and the fall quarter running from late-September to mid-December.

ii. Class Data, Contracts, and Payroll Policies

26. Based on the data produced by LSU, Plaintiff calculated that LSU employed approximately 363 part-time adjunct faculty (Adjunct Class Members or "Adjunct CMs") who taught approximately 3,375 courses during the Adjunct Class Period. Plaintiff also learned that LSU employed approximately 176 employees who worked remotely during the Reimbursement Class Period (Reimbursement Class Members or "Reimbursement CMs").

27. Based on the data, Plaintiff calculated that LSU issued 3,237 wage statements to Adjunct CMs during the relevant period prior to fall quarter 2020. Those wage statements were uniform in form and content and did not include any entries for hours actually worked by Adjunct CMs. Indeed, prior to fall 2020, LSU did not track Adjunct CMs' hours worked. Rather, LSU simply inputted its own estimate for hours worked and an hourly rate which, multiplied by the estimated hours, produced the equal biweekly payment required to produce the flat rate per-course amount provided for in the respective Contract.

28. Based on the data, Plaintiff calculated that CMs taught approximately 6,006 class sessions that were 3.5 hours or longer.

29. The Adjunct CMs' Contracts did not explicitly list a start date; they did, however, list the first day of classes, and Plaintiff contends that this is the start date for each Contract. Plaintiff alleges that Adjunct CMs were paid on a piece-rate basis, with the piece being the course, and that as result CMs were paid for the hours of course instruction only and were not paid separately for non-teaching tasks

1 including preparing for class prior to the Contract period. As stated above, based on survey responses,
2 Adjunct CMs spent on average 10 hours on work prior to the beginning of the Contract.

3 30. The Adjunct CMs' Contracts also failed to explicitly state an end date. They did, however,
4 list the last day of classes, and Plaintiff contends that this is the end date for each Contract. LSU followed
5 its regular payroll schedule in issuing final paychecks under the Contract to its adjunct instructors, which
6 meant that LSU often did not issue the final paycheck on the final day of the Contract but several days
7 later. Because the Contracts contemplated that Adjunct CMs would complete and submit grades, for
8 purposes of mediation and settlement Plaintiff assumed that the end of each Contract was the grade
9 submission deadline rather than the last day of classes. Based on data provided, LSU issued the final
10 paycheck to Adjunct CMs on average 9.4 days after the grade submission deadline.

11 31. Plaintiff was able to determine from the documents provided that the current average
12 hourly rate paid to adjunct instructors is \$31.48. Plaintiff also calculated that Adjunct CMs taught, on
13 average, 2.42 hours per day. Plaintiff calculated the average daily rate as \$76.18 by multiplying (\$31.48
14 * 2.42 hours per day).

15 32. The compensation set out in the Contracts was a fixed amount per course, which varied
16 based on the number of units taught, which is an objective factor. An Adjunct CM's compensation per
17 course could also be reduced based on low enrollment. Plaintiff thus alleged that the course pay rate was
18 a piece rate—a fixed amount of compensation paid for each unit (course) produced, regardless of how
19 much time it takes to produce the unit (course).

20 33. Plaintiff alleged that Defendant's compensation policies providing that CMs' actual pay
21 per course could vary according to the actual number of units taught or students enrolled were
22 inconsistent with a "salary," which is defined as a "*predetermined amount that is not subject to reduction*
23 *based upon the quantity or quality of work.*" *Negri v. Koning & Associates*, 216 Cal. App. 4th 392, 399
24 (2013) (emphasis in original). The theory that a fixed per course amount is a piece rate is consistent with
25 the Division of Labor Standards Enforcement's definition of a piece rate ("[w]ork paid for according to
26 the number of units turned out . . . an ascertainable figure paid for completing a particular task . . .")² and
27 is the kind of compensation that a 2014 report from the U.S. House of Representatives Committee on
28 Education and the Workforce Democratic Staff characterizes as a piece rate.³

26 ² DLSE Enforcement and Interpretation Manual § 2.5.1, found at
27 https://www.dir.ca.gov/dlse/DLSEManual/dlse_enfmanual.pdf (last visited Feb. 9, 2021).

28 ³ U.S. House of Representatives, House Committee on Education and the Workforce Democratic Staff,
(footnote continued)

1 **d. LSU Revised Its Compensation System and Changed Its Practices**

2 34. Beginning with the fall quarter 2020, LSU revised its compensation practices with respect
3 to Adjunct CMs. LSU's communication to its adjunct instructors explained: "As we approach fall
4 quarter, we need to address a legal requirement that will change how we pay our adjunct professors.
5 Beginning with fall quarter 2020, we will need to classify all adjunct professors as 'non-exempt'
6 employees, meaning that you will be paid by the hour and will need to record the hours that you work."
7 LSU also explained in its communication that: "The university is required to keep an accurate record of
8 hours worked. This means that you will need to record all time spent preparing, teaching, grading and
9 working with students outside of class The University will pay you for all hours worked. The
10 amount that you earn per course will depend on the actual number of hours worked and reported."

11 35. Thus, beginning with the fall quarter 2020, LSU reclassified its adjunct instructors as
12 nonexempt hourly employees, changed their compensation from per course to hourly, and began asking
13 them to track their actual hours worked. LSU also began to include Adjunct CMs' actual hours worked
14 on their wage statements from fall quarter 2020 onwards. Moreover, LSU permitted Adjunct CMs to
15 track and submit for payment hours worked in the week before the start of classes and the week after
16 finals.

17 36. Also, after the filing of this lawsuit, LSU introduced its COVID Temporary Emergency
18 Reimbursement policy, effective January 1, 2021, under which it retroactively reimbursed its part-time
19 employees for their expenses incurred in working from home during the COVID pandemic in the amount
20 of \$15 per month for internet costs and \$10 per month for cell phone costs; and retroactively reimbursed
21 its full-time employees in the amount of \$30 per month for internet costs and \$20 per month for cell
22 phone costs; and has been reimbursing its employees going forward on a quarterly basis.

23 **e. Mediation**

24 37. On June 14, 2021, the Parties participated in a mediation session with Mr. Louis Marlin,
25 an experienced mediator. Following the mediation, the Parties reached the basic terms of a settlement,
26 which are memorialized in this formal settlement agreement, subject to approval by the Court. The
27 Parties jointly represent that this is a fair, reasonable, and adequate settlement and have arrived at this
28 Settlement through arms-length negotiations, taking into account all relevant factors, present and
potential.

*The Just-in-Time Professor: A Staff Report Summarizing eForum Responses on the Working Conditions
of Contingent Faculty in Higher Education* (Jan. 2014) at 5
<https://edlabor.house.gov/imo/media/doc/1.24.14-AdjunctEforumReport.pdf> (last visited Feb. 9, 2021).

1 **f. Ministerial Exception**

2 38. During the mediation, Defendant vigorously contended that Plaintiff's wage and hour
3 claims are barred by the First Amendment's "ministerial exception." The First Amendment protects the
4 right of religious institutions to decide "matters of faith and doctrine" without government intrusion. *Our*
5 *Lady of Guadalupe School v. Morrissey-Berru*, 140 S.Ct. 2049, 2055 (2020) (citing *Kedroff v. Saint*
6 *Nicholas Cathedral of Russian Orthodox Church in North America*, 344 U.S. 94 (1952); *Hosanna-Tabor*
7 *Evangelical Lutheran Church and Sch. v. EEOC*, 565 U.S. 171, 186 (2012)). Therefore, courts recognize
8 a "ministerial exception" to the general rule that churches and religious institutions adhere to state and
9 federal employment laws. *Alcazar v. Corp. of the Catholic Archbishop*, 627 F.3d 1288, 1290 (9th Cir.
10 2010). The ministerial exception applies to claims under state wage and hour law. *Id.* at 1293 (holding
11 ministerial exception bars state wage and hour claims); *see also Henry v. Red Hill Evangelical Lutheran*
12 *Church of Tustin*, 201 Cal. App. 4th 1041, 1053 (2011).

13 39. In *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, the Supreme Court
14 case addressing the ministerial exception, the Supreme Court held that the First Amendment's
15 Establishment and Free Exercise clauses bar the government from interfering with the decisions of a
16 religious group in employment issues. 565 U.S. at 195-96. The Supreme Court discussed four
17 "considerations" which supported its conclusion that petitioner was barred from bringing an employment
18 discrimination suit against her church employer: "the formal title given [appellant] by the Church, the
19 substance reflected in that title, her own use of that title, and the important religious functions she
20 performed for the Church." *Id.* at 192. The Court also noted that her "job duties reflected a role in
21 conveying the Church's message and carrying out its mission." *Id.* Thus, the Supreme Court concluded
22 that "the interest of religious groups in choosing who will preach their beliefs, teach their faith, and carry
23 out their mission" barred the appellant's lawsuit. *Id.* at 196.

24 40. In a concurring opinion, Justice Alito, joined by Justice Kagan, expressed their views
25 regarding the expansive scope of the ministerial exception, noting that "courts should focus on the
26 function performed by persons who work for religious bodies." *Id.* at 198. Specifically, the exception
27 should apply to any employee "who leads a religious organization, conducts worship services or
28 important religious ceremonies or rituals, or serves as a messenger or teacher of its faith." *Id.* at 199.

 41. On July 8, 2020, the Supreme Court issued its decision in *Our Lady of Guadalupe Sch. v.*
Morrissey-Berru, 140 S. Ct. 2049 (2020), reiterating that courts must look not just at an employee's title,
but also his or her duties, in deciding whether religious instruction is an important function of the job and
thus whether the "ministerial exception" applies. In doing so, the Supreme Court found that the

1 ministerial exception applied to the plaintiffs who were elementary school teachers at Catholic schools.
2 *Id.* at 2067. The Supreme Court rejected the Ninth Circuit’s “rigid test” which placed “undue
3 significance” on the fact that the teachers did not have “clerical titles.” *Id.*

4 42. Defendant contended that Adjunct CMs are responsible for carrying out LSU’s Christian
5 mission by integrating faith into classroom instruction. Therefore, Adjunct are “ministers” for purposes
6 of the ministerial exception.

7 43. Further, Defendant could have contended that even if the ministerial exception were not
8 a complete defense to Plaintiff’s wage and hour claims it would still result in a denial of class certification.
9 This argument is based on the argument that the various factors the Supreme Court looks to when
10 deciding whether the exception applies raise a host of individual issues that would need to be resolved
11 on an employee by employee basis, rendering this case unsuitable for prosecution on a class-wide basis.

12 44. Plaintiff contended that the ministerial exception would not apply because Adjuncts are
13 not required to hold or espouse any religious belief or engage in any religious teaching or any other
14 religious activities. Further, Plaintiff contended that LSU has explicitly stated that the Labor Code applies
15 to Adjuncts, and reclassified Adjuncts in compliance with the Labor Code. Finally, Plaintiff contended
16 that the ministerial exception does not apply to neutral wage and hour laws that do not involve a religious
17 institution’s right to choose whom to hire or retain as employees. Thus, Plaintiff contended that the
18 ministerial exception would not apply here.

19 45. If the parties litigated this point, however the trial court ultimately ruled on the
20 applicability of the ministerial exception to California wage and hour laws and its impact on class
21 certification, the losing party would appeal to the appellate court, then to the state Supreme Court, and
22 ultimately would seek *certiorari* from the United States Supreme Court. This process, which would take
23 years to resolve under normal circumstances, would take even longer as a result of the backlog the courts
24 face due to the Covid-19 shutdown and its aftermath.

25 IV. PLAINTIFF’S DAMAGES ANALYSIS

26 46. Plaintiff calculated LSU’s maximum liability (before applying any discounts based on the
27 ministerial exception defense, merits defenses and the risk of non-certification) and potential realistic
28 liability (after applying discounts) as follows:

29 a. Unpaid Wages – Labor Code §§ 1194 and 226.2

30 47. Plaintiff alleged that Adjunct CMs were paid on a piece-rate basis, with the piece being
31 the course, and that as a result Adjunct CMs were paid for the hours of course instruction only and were
32 not paid separately for non-teaching tasks, such as preparing for class prior to and during the semester,

grading, office hours, and attending department meetings, in violation of Labor Code § 226.2. During the discovery and investigation phase, however, Plaintiff concluded that Adjunct CMs' Contracts contemplated that Adjunct CMs would complete and submit grades. The Contracts state: "Course grades are due at 2:00 p.m. on the Tuesday following final examination week. The final pay check may be held until the grades are turned in at the registrar's office." Plaintiff also concluded that Defendant could reasonably argue that course preparation and meeting with students or holding office hours during the quarter were tasks directly related to and included in the course teaching assignment set out in the Contracts. Thus, for purposes of the settlement, Plaintiff limited his claim only to work performed prior to the first day of classes on the basis that the only date on the Contracts indicating the start of the contract was the first day of classes and, thus, compensation in the Contract was also only for that period, and not for work performed prior to that period.

48. Based on survey results, and conversations with Plaintiff, Plaintiff estimates that Adjunct CMs spent an average of 10 hours working before the first day of classes.

49. Plaintiff calculated LSU's exposure to the unpaid wages claim as follows: Adjunct CMs taught a combined total of 3,375 courses from the beginning of the Class Period to Fall 2020 when LSU reclassified Adjunct CMs and began paying them for work performed in the week prior to the start of classes. The average minimum wage during the Class Period was \$11.63. Thus, assuming CMs spent 10 hours working before the start of their Contracts, CMs' unpaid wages are calculated by multiplying 3,375 courses by 10 hours by \$11.63, which equals \$392,512. Interest at 10% per annum adds another \$98,128 for a total of **\$490,641**.

50. **Unpaid Wages Certification Discount:** Plaintiff applied a minimal 10% discount for the risk for non-certification on the theory that the flat per course/unit rate included all the activities performed prior to the Course, that the amount of time each Adjunct CM spent on pre-Contract work would lead to individualized issues, and because of potentially individualized issues of whether the tasks performed pre-Contract were under LSU's control. Applying this discount reduced LSU's exposure to unpaid wages to **\$441,577**.

51. **Unpaid Wages Merits Discount:** As to the merits, Plaintiff applied a further 30% discount for the risk that CMs' per-course compensation, whether a piece-rate or a salary, included the hours worked before the start of the Contracts because those hours were spent on tasks directly related to the course teaching assignment set out in the Contracts, and for a small risk that a court would find CMs are exempt. Accordingly, Plaintiff believes that the unpaid wages claim presents a moderate risk and

1 that a 30% discount was warranted based on these arguments. After applying these discounts, for
2 settlement purposes, Plaintiffs calculated LSU's realistic exposure on the unpaid wage claim is **\$309,104**.

3 **b. Inaccurate Wage Statements - Labor Code § 226(e)**

4 52. Plaintiff contends that Adjunct CMs, as non-exempt employees, were entitled to wage
5 statements that listed their total hours worked and applicable hourly rates pursuant to Labor Code §§
6 226(a)(2) and (a)(9). Moreover, as piece rate employees, Adjunct CMs were entitled to wage statements
7 that included their piece rate, the number of pieces earned, and rest break and nonproductive time
8 information pursuant to Labor Code §§ 226(a)(3) and 226.2(a).

9 53. Prior to September 2020, Defendant did not classify CMs as non-exempt even though
10 Adjunct CMs did not meet the salary basis test for the professional exemption under Wage Order No. 4,
11 § 1 and did not track their hours worked. Accordingly, LSU did not include on Adjunct CMs' wage
12 statements any entries for hours actually worked or, accordingly, for actually applicable hourly rates.
13 Moreover, LSU did not provide any of the required piece rate information. Plaintiff believed he would
14 be able to prove on a class-wide basis that LSU is liable for penalties under § 226(e) because the wage
15 statements issued to Adjunct CMs were uniform in form and content: The statements omitted the total
16 hours actually worked and actually applicable hourly rates and did not contain piece-rate information.

17 54. Plaintiff calculated Defendant's liability on this wage statement claim as follows: 239
18 Adjunct CMs worked during the Wage Statement Class Period (November 12, 2019 to September 21,
19 2020) and were issued 3,237 inaccurate wage statements during the relevant period. Accordingly, there
20 are 239 initial violations to which a \$50 penalty applies (Labor Code § 226(e)(1)), and there are 2,998
21 subsequent violations (3,237-239) to which a \$100 penalty applied (*id.*). Thus, LSU's exposure to
22 statutory penalties is **\$311,750**.

23 55. **Wage Statement Certification Discount:** Plaintiff applied a minimal 10% certification
24 discount because the wage statements LSU issued were uniform in form and content and wage statement
25 claims are particularly well-suited to class certification. *See Lubin v. Wackenhut Corp.*, 5 Cal. App. 5th
26 926 (2016); *Torres v. Air to Ground Services, Inc.*, 300 F.R.D. 386, 403 (C.D. Cal. 2014). This reduced
27 Defendant's exposure to \$280,575.

28 56. **Wage Statement Merits Discount:** Plaintiff applied a further 10% reduction for the risk
on the merits based on the following actual and potential arguments: First, Defendant could have
contended that the maximum applicable statutory penalty was the initial penalty of \$50 per wage
statement because Plaintiff had not established that Defendant ever received notice from the labor
commissioner or a court, and so there are arguably no "subsequent" violations. *See Robinson v. Open*

1 *Top Sightseeing San Francisco, LLC*, No. 14-cv-00852, 2018 U.S. Dist. LEXIS 24556, **52-58 (N.D.
2 Cal. Feb. 14, 2018) (finding that only the initial \$50 Labor Code § 226(e) penalty applied because nothing
3 in the record showed defendant as previously notified that its wage statements were noncompliant).
4 Second, Defendant in its Answer asserted the defense that it acted in good faith and thus did not
5 “knowingly and intentionally” fail to provide compliant wage statements. Although this argument has
6 been recognized by the federal district courts, it has been rejected by California state courts. *See, e.g.,*
7 *Kao v. Holiday*, 12 Cal. App. 5th 947, 962 (2017); *Furry v. East Bay Publishing, LLC*, 30 Cal. App. 5th
8 1072, 1085 (2018). Thus, all Plaintiff would need to show, which he can easily do, is that LSU knew
9 that it provided wage statements that did not have all the required information. *See Furry*, 30 Cal. App.
10 5th at 1085. Third, Defendant disputes that Adjunct CMs were non-exempt employees. From previous
11 experience in litigating similar claims, Plaintiff believes that an argument that Adjunct CMs are exempt
12 is based on the premise that the minimum salary required to be exempt in California can be prorated for
13 part-time employment. However, the clear guidance from the DLSE and a December 3, 1999,
14 memorandum from the Chief Legal Counsel for the Labor Commissioner expressly provide that this
15 premise is incorrect. Indeed, Plaintiff’s Counsel recently litigated this very issue at a bench trial and won
16 in *Gola v. University of San Francisco*, No. CGC-18-565018 (San Francisco Super. Ct., Aug. 10,
17 2020)). For settlement purposes, applying these discounts, reduces LSU’s liability on the wage statement
18 claim to **\$252,518**.

16 c. **Rest Break Claims – Labor Code §§ 226.2, 226.7**

17 57. Plaintiff alleges that LSU compensated Adjunct CMs on a piece-rate basis, and thus was
18 required, but failed, to pay CMs hourly and separately from the piece for the time spent on rest breaks at
19 their average hourly rate pursuant to Labor Code § 226.2.

20 58. Labor Code 226.2(a)(1) provides that “employees compensated on a piece-rate basis . . .
21 shall be compensated for rest and recovery periods . . . separate from any piece-rate compensation.” Rest
22 break time must be compensated at the employee’s regular hourly rate. Lab. Code § 226.2(a)(3).
23 California law also obligates employers to afford their non-exempt employees rest breaks. Labor Code
24 § 226.7 and Wage Order No. 4, § 12. An employer is required to authorize and permit its employees
25 who work 3.5 hours or longer straight to take 10-minute rest breaks for every 3.5 hours worked. *Id.*;
26 *Brinker Restaurant Corp. v. Super. Ct.*, 53 Cal. 4th 1004, 1018 (2012); *see also id.* at 1028-30, 1034. If
27 an employer fails to provide an employee with a lawful rest period, Labor Code § 226.7 and Wage Order
28 No. 4, § 12 provide that the employer must pay the employee a premium pay of “one additional hour of
pay at the employee’s regular rate of compensation.” *Id.* Under *Amaro v. Gerawan Farming, Inc.*, 2016

1 U.S. Dist. LEXIS 112540, at *5 (E.D. Cal. Aug. 23, 2016), employees can pursue rest break premium
2 claims in lieu of unpaid wage claims for premium pay under Labor Code § 226.2.

3 59. Plaintiff contends that the course rate was not a salary because “salary” is defined as a
4 “predetermined amount that is not subject to reduction upon the quantity or quality of work.” *Negri*, 216
5 Cal. App. 4th at 399 (citing *Kettenring v. Los Angeles Unified Sch. Dist.*, 167 Cal. App. 4th 507, 513-
6 514 (2008)). Adjunct CMs’ compensation, however, could have been and was reduced based on the
7 number of students taught, which is inconsistent with the compensation being a salary. *See also Lucero*
8 *v. Regents of Univ. of Cal.*, 1993 U.S. Dist. LEXIS 12208, at *17 (N.D. Cal. 1993) (stating that “an
9 exempt employee’s must ‘not [be] subject to reduction” and finding that “the University’s policies
10 permitting, suspension without pay for disciplinary reasons other than safety violations, standing alone,
11 preclude a salaried basis status”).

12 60. The theory that a fixed, per course amount is a piece rate is consisted with DLSE’s
13 definition of a piece rate (“[w]ork paid for according to the number of units turned out . . . an ascertainable
14 figure paid for completing a particular task . . .”) and is the kind of compensation that a 2014 report from
15 the U.S. House of Representatives Committee on Education and the Workforce Democratic Staff
16 characterizes as a piece rate.⁴

17 61. Based on the argument that Adjunct CMs were piece rate workers, those CMs who worked
18 3.5 hours or more were entitled to hourly and separate pay for rest breaks, but were not paid this, and
19 therefore, those employees were entitled to premium pay under Labor Code § 226.7 and the Wage Order
20 No. 4.

21 62. Plaintiff further alleged that even if Adjunct CMs were not piece rate workers, they were
22 still non-exempt because they did not earn enough to be exempt under Wage Order No. 4 and Labor Code
23 § 515. As nonexempt employees, Plaintiff alleged Adjunct CMs were entitled to off-duty rest breaks,
24 yet the nature of their employment and policies and/or practices imposed by LSU impeded their ability
25 to take off-duty rest breaks during classes of 3.5 hours or longer because Adjunct CMs remained available
26 to students for questions during that time.

27 63. Plaintiff calculated that during the Class Period, CMs taught 6,006 class sessions that were
28 3.5 hours or longer. Plaintiff calculated Defendant’s liability on the rest break claim as follows: LSU

26 ⁴ U.S. House of Representatives, House Committee on Education and the Workforce Democratic Staff,
27 *The Just-in-Time Professor: A Staff Report Summarizing eForum Responses on the Working Conditions*
28 *of Contingent Faculty in Higher Education* (Jan. 2014) at 5
<https://edlabor.house.gov/imo/media/doc/1.24.14-AdjunctEforumReport.pdf> (last visited Feb. 9, 2021).

1 currently pays Adjunct CMs an average hourly rate of \$31.48. Therefore, LSU is liable for \$31.48 in
2 premium pay for each of the 6,006 3.5-hour class sessions, which equals \$189,069. Interest at 7% per
3 annum adds \$33,087 for a total of **\$222,156**.

4 64. **Rest Break Certification Discount:** Defendant could have argued that even if Adjunct
5 CMs were paid on a piece-rate basis, that the piece-rate included time spent on rest breaks, what was
6 included in the piece-rate would depend on each CM's understanding of what the course rate covered,
7 and individualized issues would predominate. As to Plaintiff's claim that Adjunct CMs were entitled to
8 rest breaks as non-exempt employees but the nature of Adjunct CMs' employment and policies and/or
9 practices of LSU impeded CMs from taking rest breaks, Defendant argued Plaintiff would be unable to
10 certify a class because individualized issues would predominate among putative class members in that
11 LSU maintained a compliant rest break policy which would lead to individualized issues of why some
12 CMs took rest breaks while others did not.

13 65. Plaintiff applied a 10% discount for the risk of class certification on the piece-rate theory,
14 and a larger 30% discount for the risk of losing on class certification on the theory that Adjunct CMs
15 were non-exempt (which was riskier because it relied heavily on testimony regarding Adjunct CMs'
16 experience). Plaintiff then applied an average 20% discount for the risk of losing on class certification.
17 This reduced the premium pay total to **\$177,725**.

18 66. **Rest Break Merits Discount:** Plaintiff applied a further 10% discount based on the
19 argument that if Adjunct CMs were properly classified as salaried non-exempt employees, LSU had a
20 compliant rest break policy and that they were provided with rest breaks. Plaintiff also gave some (but
21 not much) weight to LSU's argument that CMs were properly classified as salaried exempt, but did give
22 weight to LSU's argument that it had a compliant rest break policy and that the course rate may be found
23 to be a salary because it appeared that CMs did receive a predetermined amount each pay period that was
24 not subject to change within each pay period based on the number of hours taught. For settlement
25 purposes, this reduced LSU's exposure on the rest break claim to **\$159,952**.

26 **d. Meal Break Claims - Labor Code §§ 226.7, 512**

27 67. Plaintiff alleged that Adjunct CMs were non-exempt employees and were therefore
28 entitled to an off-duty, unpaid 30-minute meal break before the end of the fifth hour of each shift pursuant
to Labor Code § 512. Plaintiff alleged that Defendant imposed uniform policies and/or practices that
impeded Adjunct CMs' ability to take meal breaks, including the requirement and expectation that
Adjunct CMs be available to students during any class breaks to answer students' questions.

1 68. Plaintiff calculated that during the Class Period, Adjunct CMs taught 45 class sessions
2 that were 5 hours or longer. Plaintiff calculated Defendant's liability on the meal break claim as follows:
3 Assuming a 100% violation rate, LSU is liable one hour of premium pay (\$31.48) for all 45 five-hour
4 class sessions, which amounts to \$1,417. Interest at 7% per annum adds \$247.97 for a total of **\$1,665**.

5 69. **Class Certification:** Defendant could have argued that this claim would not be certified
6 based on the fact that Adjunct CMs taught different courses on different days with different class lengths,
7 and Defendant might successfully argue that individual inquiries would be necessary to determine
8 whether Adjunct CMs were able to take meal breaks. Plaintiff would have to rely on CM testimony
9 rather than an analysis of common factual documents to prove this claim, which added to the certification
10 risk. Therefore, Plaintiff applied a 25% discount, which reduced LSU's likely exposure to \$1,248.

11 70. **Merits:** Defendant could have argued that CMs were exempt and therefore not entitled to
12 meal breaks. Even if CMs were not exempt, Defendant argued that longer classes had breaks, and CMs
13 were permitted to take compliant meal periods, and if they failed to do so it was as a matter of choice.
14 Defendant therefore argued that Plaintiffs' assumed violation rate of 100% was highly unrealistic.
15 Plaintiffs believed these arguments warranted a further 25% discount. After applying discounts, LSU's
16 realistic exposure on the meal break claim was reduced to **\$936**.

17 e. **Waiting Time Penalties - Labor Code § 203**

18 71. Plaintiff alleges that LSU employed Adjunct CMs pursuant to a new and separate contract
19 each term/quarter. Defendant's data showed that Adjunct CMs worked a total of 1,396 terms during the
20 relevant period (November 12, 2017 to September 21, 2020). Plaintiff's theory of liability is that Adjunct
21 CMs' Contracts were for a definitive period of time, which ended on the last day of classes (the end date
22 listed in the Contract), and therefore CMs were discharged for purposes of Labor Code § 201 on that
23 date. However, for purposes of settlement, and because the Contracts provide that "[c]ourse grades are
24 due at 2:00 p.m. on the Tuesday following final examination week. The final paycheck may be held until
25 the grades are turned in at the registrar's office," and, thus, Defendant might have reasonably argued that
26 Adjunct CMs' Contracts extended until they had submitted grades at the end of each quarter, Plaintiff
27 calculated Defendant's liability assuming that each Contract ended on the last day for instructors to
28 submit grades. Applying this assumption, Plaintiff calculated that LSU issued final paychecks on average
9.4 days after the end of the Contracts, thereby failing to comply with the timely final payment obligation
of § 201(a). As a result, LSU owes Adjunct CMs waiting time penalties pursuant to Labor Code § 203.

 72. Plaintiff calculated LSU's maximum liability on this claim as follows: as stated above,
Plaintiff calculated Adjunct CMs' daily rate as \$76.18. Based on the data, due to payroll falling after the

1 discharge, assuming an average of 9.4 late days, there are a total of 13,164 days of waiting time penalties
2 that are potentially owed for all the 1,396 Contracts/discharges. Thus, the penalty for all 1,396 discharges
3 is (\$76.18 daily rate * 13,164 days late) which equals **\$999,685**.

4 73. **Certification Discount:** Plaintiff applied a minimal 10% discount for the risk of non-
5 certification because their theory of liability is amenable to class treatment as the relevant legal and
6 factual issues can be determined by facts common to all Adjunct CMs. Additionally, whether the
7 Contract Teaching Agreements are contracts for a definitive period of time, and what the end date of the
8 contract is, are matters of construction of the Contracts, the answer to which will apply equally to all
9 Adjunct CMs. *See Rodman v. Safeway, Inc.*, No. 11-cv-03003-JST, 2014 U.S. Dist. LEXIS 314438, at
10 *25 (N.D. Cal. Mar. 9, 2014) (holding that “‘claims arising from interpretations of a form contract appear
11 to present the classic case for treatment as a class action’”) (citing cases). Whether Adjunct CMs were
12 discharged at the end of a contract for a definitive period is a question of law, and whether the late
13 payment was willful is a question that can be determined through PMK testimony. Applying this discount
14 reduced the waiting time penalties to **\$899,717**.

15 74. **Merits Discount:** Plaintiff applied a 25% discount on the merits based on Defendant’s
16 potential major defenses that (1) there was not an actual discharge at the end of each Contract because
17 the majority of Adjunct CMs worked continuously from term to term and maintained an employment
18 relationship with LSU, (2) LSU had a good faith dispute that there was not a discharge, and (3) LSU had
19 a good faith dispute that Class Members were properly classified as exempt, or as salaried non-exempt
20 and were not owed any unpaid wages. These defenses could negate the willfulness requirement of Labor
21 Code Section 203. *See Barnhill v. Roberts Saunders & Co.*, 125 Cal. App. 3d 1, 8-9 (1981) (an employer’s
22 failure to pay wages is not “willful,” if the legal duty to pay them was unclear at the time of the violation.);
23 *see also* Cal. Code Regs., tit. 8, § 13520. Applying this discount, for settlement purposes, the realistic
24 value of the penalties is reduced to **\$674,788**.

25 **f. Adjunct Unreimbursed Expenses Claim - Labor Code § 2802**

26 75. Plaintiff alleged that LSU did not reimburse Adjunct CMs who taught online courses
27 between the start of the Adjunct Class Period and the start of the COVID pandemic. Based on data
28 provided, Adjunct CMs taught 429 such courses during the relevant period (November 12, 2016 to March
4, 2020) with the courses being, on average, approximately 2.5 months in length. Plaintiff contends that
under Labor Code § 2802, Adjunct CMs were entitled to be compensated for business expenses, including
the cost of home internet and cellular telephones, necessarily incurred as a result of teaching courses
online. Using the reimbursement amounts set out in LSU’s own Covid Temporary Emergency

1 Reimbursement policy (\$15 per month for internet costs and \$10 per month for cell phone costs), Plaintiff
2 calculated the unreimbursed expenses of Adjunct CMs as follows: 429 courses * 2.5 months * \$25 =
3 \$26,813. Interest at 10% per annum adds \$6,703 for a total of **\$33,516**.

4 76. Between March 4, 2020 and December 31, 2020 all Adjuncts taught courses from home
5 and incurred unreimbursed home office expenses. As discussed above, LSU instituted a policy, effective
6 January 1, 2021, under which it retroactively reimbursed part-time employees for their expenses incurred
7 in working from home during the COVID pandemic at the rate of \$25 per month (\$15 per month for
8 internet costs and \$10 per month for cell phone costs). For purposes of settlement, Plaintiff accepted that
9 under its new policy, LSU adequately reimbursed expenses incurred by adjuncts since the start of the
10 COVID pandemic, but LSU would still be liable for interest on the late payments. Plaintiff calculated the
11 expenses untimely reimbursed to Adjunct CMs using LSU's \$25 monthly reimbursement amount.
12 Between the start of the pandemic and the end of 2020, Adjunct CMs taught approximately 734 courses
13 * 2.5 months per course * \$25 per month = \$45,856 in unreimbursed expenses. Thus, the maximum
14 interest owed to the Adjuncts (an average of 5 months worked per adjunct between March – December
2020 and 10% interest on \$45,856) is approximately \$1,153; and the total owed to all Adjuncts CMS is
15 (\$33,516 + \$1,153) = **\$34,669**.

16 77. **Adjunct Class Certification Risk:** Plaintiff acknowledges that there were varying
17 practices with regard to incurring expenses that pose an obstacle to class certification. Therefore, Plaintiff
18 applied a 25% reduction for class certification. Applying this discount reduced the recoverable
19 unreimbursed expenses to **\$26,001**.

20 78. **Adjunct Class Merits Risk:** As to the merits, Plaintiff applied a further 25% discount
21 based on anticipated arguments that even if expenses were incurred, they were voluntary and/or minimal,
22 and that LSU had a written expense reimbursement policy applicable to Adjunct CMs at all relevant times
23 under which CMs were free and able to seek reimbursement for expenses incurred for remote work. This
24 reduced realistic damages to **\$19,501**.

25 **g. The Settlement Represents 55% of the LSU's Realistic Exposure on**
26 **Adjunct's Claims**

27 79. A summary of Plaintiff's calculated maximum damages (excluding PAGA penalties) is
28 as follows:

Labor Code Section	Maximum Damages	Realistic Exposure
Unpaid Wages (§§ 226.2 / 1194)	\$490,641	\$309,104
Wage Statements (§§ 226(a), (e))	\$311,750	\$252,518
Rest Breaks (§ 226.7)	\$222,156	\$159,952
Meal Breaks (§ 512)	\$1,665	\$936
Waiting Time Penalties (§ 203)	\$999,685	\$674,788
Unreimbursed Expenses (§ 2802)	\$34,669	\$19,501
Sub Total	\$2,060,565	\$1,416,798

80. Plaintiff calculated LSU's maximum exposure on the Class claims (excluding PAGA and including interest) as \$2,060,565. After discounts, Plaintiff estimated Defendant's *realistic* exposure as \$1,416,798. Plaintiff then applied a final 30% discount to the realistic exposure for the major risk that Plaintiff's wage and hour claims are barred by the First Amendment's "ministerial exception" and would be subject to dismissal. This reduces all claims to \$991,759. Before discounts the \$541,200 of the Gross Settlement allocated to adjuncts represents 26% of the maximum exposure (excluding PAGA); after discounts it represents 55% of the realistic exposure (excluding PAGA). As stated above, the settlement amount allocated to the Adjunct class claims, negotiated at arms- length, is fair and reasonable in light of the strengths and weaknesses of Plaintiff's case.

h. Reimbursement Class Expenses Claim - Labor Code § 2802

81. On March 4, 2020, as a result of the COVID-19 pandemic and the state of emergency declared in California, all California Universities, including LSU, moved classes online and required all other (non-faculty) employees to work from home. As a result, LSU's employees incurred home internet and cellular telephone costs in carrying out their job duties for LSU, without any reimbursement.

82. After this lawsuit was initiated, as discussed above, LSU instituted a policy, effective January 1, 2021, under which it retroactively reimbursed its full-time employees \$50 per month for their expenses incurred in working from home during the COVID pandemic. Between the start of the pandemic and the institution of the new policy was approximately 10 months. 10 months * \$50 per month * 176 Reimbursement CMs = \$88,000. Thus, the maximum interest owed to the Reimbursement Class (an average of 10 months interest at 10% on \$88,000) is approximately \$7,300⁵ or \$41.48 per Reimbursement CM. However, because a timely reimbursement will incur no interest charge, and

⁵ 10 months/ 12 months = 0.83. (\$8,800 * 0.83 = \$7,300)

1 because Defendant can reasonably argue that at least some of the reimbursements made were timely (such
2 as reimbursements for expenses incurred by CMs in December 2020) the actual interest owing is a smaller
3 amount.

4 83. **Reimbursement Class Certification and Merits Risks:** Plaintiff acknowledges that
5 there are risks as to class certification for the Reimbursement Class based on the fact that there was no
6 written policy requiring Reimbursement CMs to use their cellular phones or incur home office expenses.
7 Additionally, the fact that there were varying practices with regard to incurring expenses by
8 Reimbursement CMs presents an obstacle to class certification as well. Further, because a timely
9 reimbursement will incur no interest, and because Defendant can reasonably argue that at least some of
10 the reimbursements made were timely (including reimbursement made for December 2020 expenses),
11 the actual interest owing is a smaller amount. Because the interest recoverable by the Reimbursement
12 Class was minimal and uncertain, Plaintiff did not apply specific reductions based on class certification
13 and merits risks.

14 i. **The \$8,800 Allocation to the Reimbursement Class is Fair and Reasonable:**

15 84. For settlement, Plaintiff calculated the Reimbursement Class' share of the Net Settlement
16 Amount ("NSA") as \$50 for each of the approximately 176 Reimbursement CMs (a total of \$8,800).
17 Plaintiff believes that this more than covers the maximum recovery on that Class's claims (at most \$41.47
18 in interest per Reimbursement Class Member) and appropriately acknowledges the fact that the
19 Reimbursement Class claims all arose during the PAGA period and the Reimbursement CMs could,
20 potentially, have recovered some amount in PAGA penalties.

21 i. **The PAGA Allocation is Fair and Reasonable**

22 85. Plaintiff calculates there were 3,850 pay periods with a Labor Code violation during the
23 Adjunct PAGA Period (October 19, 2019 to September 21, 2020); and 3,520 pay periods with a Labor
24 Code violation during the Reimbursement PAGA Period (March 4, 2020 to December 31, 2020). Using
25 a penalty of \$100 per pay period (because Defendant never received notice from the Labor Commissioner
26 or the Court so there are arguably no "subsequent" violations), Defendant's maximum exposure in PAGA
27 Penalties is **\$737,000** (assuming the Court would not allow "stacking" of PAGA penalties for each
28 separate Labor Code violations). *See Castillo v. ADT, LLC*, No. 2:15-383 WBS DB, 2017 U.S. Dist.
LEXIS 10579, at *11 (E.D. Cal. Jan. 24, 2017).

86. The \$15,000 allocated to PAGA penalties represents approximately 2% of Defendant's
maximum total exposure to PAGA penalties. For the reasons set out below, this allocation is fair and
reasonable. First, Defendant contended that the Court could reduce any award of PAGA penalties as

1 “unjust, arbitrary and oppressive, or confiscatory” under Labor Code § 2699(i) in light of the fact that
2 LSU revised its compensation practices to bring them into compliance with the Labor Code from fall
3 quarter 2020 onwards, including reclassifying Adjunct CMs as hourly non-exempt employees, asking
4 them to record their hours, and paying them on an hourly basis, and it changed its reimbursement practices
5 to cover Reimbursement CMs’ business expenses.

6 87. Second, the overall settlement resulted in robust relief of \$1,490.91 per Adjunct CM gross,
7 and \$806.80 net, and \$50 per Reimbursement CM, which is what courts look at when assessing amount
8 attributed to PAGA penalties. In *Gola v. University of San Francisco*, No. CGC-18-565018 (San
9 Francisco Super. Cnty. Ct.), a recent case I tried and won on behalf of adjunct instructors, the court found
10 that substantial monetary relief in form of statutory penalties under § 226(e) (and fees and costs plaintiff
11 would seek) acted as a sufficient punishment and deterrent, and awarded only 15% of the full PAGA
12 penalties - in a case where defendant did not have a good faith defense and did not change its practices
13 to comply after the lawsuit was filed.

14 88. Third, Defendant contended that Plaintiff’s claims for PAGA Penalties would fail for the
15 same reasons the underlying Labor Code claims would fail. Third, the Court could drastically reduce
16 PAGA penalties in the exercise of its discretion.

17 89. Fourth, although class certification requirements do not apply to PAGA claims, “such
18 claims can be stricken if they are found to be ‘unmanageable,’” and because only CMs who actually
19 incurred unpaid wages, unpaid premium pay, or unreimbursed expenses during a particular pay period
20 could recover PAGA penalties for those violations, Defendant could have disputed that there is a
21 manageable way to determine who was entitled to such penalties. *See, e.g., Raphael v. Tesoro Ref &*
22 *Mktg. Co.*, 2015 U.S. Dist. LEXIS 130532, at *5 (C.D. Cal. Sept. 25, 2015).

23 90. Finally, Plaintiff’s allocation of 2% of the maximum value of PAGA Penalties is
24 comparable to PAGA allocations in similar cases that received final approval including *Pillow et al. v.*
25 *Pepperdine University*, Case No. 19STCV33162 (Los Angeles Superior Court)(July 28, 2021)(finally
26 approving PAGA payment in the amount of \$15,000, representing 1% of the maximum \$1,619,200 in
27 PAGA penalties); *Moore et al v Notre Dame De Namur University*, Case No. 19-CIV-04765 (San Mateo
28 County Superior Court) (July 1, 2021)(finally PAGA payment in the amount of \$12,000, representing
1.9% of the maximum \$631,300 in PAGA penalties); *Mooiman et al. v Saint Mary’s College of*
California, Case No. C19-02092 (Contra Costa County Superior Court) (June 10, 2021)(finally
approving \$30,000 carve out for PAGA Penalties, representing 1% of the maximum \$649,200 in PAGA
penalties, where “the record indicates that defendant changed many of the policies at issue before the

1 action was brought, that there is a substantial monetary award which in part serves the deterrent function
2 of a penalty, and that defendant had some arguments of “good faith,” that would mitigate penalties”);
3 *Morse v Fresno Pacific University*, Case No. 19-CV-04350 (Merced County Superior Court) (April 6,
4 2021) finally approving a \$30,000 carve out for PAGA Penalties, representing 2% of maximum
5 \$1,194,800 in PAGA penalties).

6 **V. FAIRNESS, ADEQUACY, AND REASONABLENESS OF SETTLEMENT**

7 91. Based on my experience with similar class actions and my investigation, research, and
8 knowledge of the specific facts and legal issues in this case, and the current pandemic, I believe that the
9 Settlement is fair, adequate, reasonable, and appropriate. This conclusion is based on my knowledge of
10 the strength and weaknesses of the claims asserted by Plaintiff, Defendant’s defenses, facts learned during
11 informal discovery and facts learned during my firm’s research and investigation, and the typical risks
12 associated with further litigation.

13 92. **Adjunct Class Claims**: As discussed above, Plaintiff’s attorneys calculated Defendant’s
14 maximum exposure on the Class claims as \$2,060,565 (including interest and excluding PAGA
15 penalties). The \$541,200 of the GSA allocated to the Adjunct claims represents 26% of the maximum
16 exposure. Defendant’s realistic exposure, after applying discounts, is \$991,759, which represents 55% of
17 the GSA (excluding PAGA). This is, in my experience, a very good percentage for a settlement in light
18 of the risks posed by continued litigation, including the risks posed by Defendant’s major ministerial
19 exception defense.

20 93. Defendant has also agreed to pay the employer’s share of payroll taxes in addition to the
21 gross settlement, which will increase the overall value of the settlement.

22 94. Under the Settlement Agreement, if approved as submitted, at least \$301,667 ⁶ (the Net
23 Settlement Amount or “NSA”) will be available for distribution among all Class Members (after
24 deductions of fees, costs, enhancement award, Administration fees, and PAGA payments). From this
25 amount \$8,800 will be allocated to the Reimbursement Class (“Reimbursement NSA”) and each
26 Reimbursement CM will receive a flat \$50 from this amount. The remainder of the NSA will be
27 distributed to the Adjunct Class *pro rata* by dividing the number of credits taught by each Adjunct CM
28 during the Adjunct Class Period by the number of credits taught by all Adjunct CMs during the Adjunct
Class Period, and then multiplying the resulting figure by the Adjunct NSA. This formula relies on

⁶ The Net Settlement amount after deduction of fees (up to \$183,333.33), costs (\$20,000); enhancement
award to Plaintiff (\$10,000); settlement administration costs (not to exceed \$20,000); and the PAGA
amount (\$15,000).

1 objective data from each Adjunct CM's employment history, which Adjuncts can easily review and
2 confirm for themselves. This information is readily available from Defendant's records, and the
3 Settlement Administrator can apply the formula in a fair and transparent manner. CMs are given an
4 opportunity to dispute the information in the Class Notice.

5 95. The average net recovery is \$806.80 per Adjunct CM,⁷ and the average gross recovery is
6 \$1,490.91.⁸ The average gross recovery per work week is \$26.07⁹ or \$14.11 net.¹⁰ This recovery is
7 significant and compare favorably with similar cases where defendants did not have a ministerial
8 exception defense, including *Peng v The President and Board of Trustees of Santa Clara College*, Case
9 No. 19CV348190 (Cal. Super. Ct. Santa Clara Cnty., April 21, 2021) (\$27.36 gross per week); *Moore*
10 *et al v Notre Dame De Namur University*, Case No. 19-CIV-04765 (San Mateo County Superior Court)
11 (July 1, 2021) (\$31.44 gross per week); *Stempien v. DeVry University, Inc.*, No. RG19002623 (Alameda
12 Cty. Super Ct. July 30, 2020) (\$31.51 gross per week) and *McCoy v. Concorde Career Colleges, Inc.*,
13 No. 30-2017-00936359-CU-OE-CXC (Orange Cty. Super. Ct. July 2, 2019) (\$32.15 gross per week).

14 96. **Reimbursement Class Claims**: The average payment for Reimbursement CMs will be
15 \$50. As discussed above, this is greater than the maximum potential recovery of \$41.48 in interest
16 recoverable by Reimbursement CMs; and acknowledges their potential recovery of some amount in
17 PAGA penalties..

18 **VI. THE SETTLEMENT AVOIDS RISKS AND EXPENSE OF FURTHER LITIGATION,**
19 **INCLUDING APPEALS**

20 97. If the parties continued to litigate this case, Defendant would likely seek a ruling on the
21 issue of ministerial exception. If Defendant succeeded, Plaintiff's claims would be completely barred
22 because the ministerial exception is a complete defense to liability in this case. Although the parties
23 disagreed about the application of this exception, the ultimate outcome was uncertain.

24 98. If the parties continued to litigate this case and the trial court ultimately ruled on the
25 applicability of the ministerial exception to California wage and hour laws, the losing party would likely
26 appeal to the appellate court and then to the state Supreme Court, and ultimately would likely seek
27 *certiorari* from the U.S. Supreme Court. While Plaintiff believes that he had a strong chance of
28 succeeding in a state court on this issue, the outcome in the U. S. Supreme Court is much less certain.

⁷ \$292,867 / 363 Adjunct CMs.

⁸ \$541,200 / 363 Adjunct CMs.

⁹ \$541,200 / 20,757 work weeks in the Adjunct Class Period.

¹⁰ \$292,867 / 20,757 work weeks.

Moreover, the process of litigating this issue under normal circumstances would take years, and even longer during the COVID-19 pandemic when many courts are backlogged. Moreover, LSU's financial well-being is threatened by the pandemic and its aftermath, just like that of many other universities. Even if Plaintiff prevailed years from now, it is possible that LSU would have no money to satisfy the judgment.

99. Beside the ministerial exception, Plaintiff faced other risks to the certification of his claims and on the merits, as discussed above.

100. In the absence of settlement, Plaintiff would have to commence and complete formal discovery, file a class certification motion, and engage in motion practice, starting with LSU's motion to dismiss based on the ministerial exception defense. Plaintiff would then have to spend dozens of hours preparing for trial. Assuming Plaintiff won, LSU would likely appeal. At the end of a trial and appeals, Plaintiff could win and collect full recovery, could win and collect a portion of the recovery sought, or could lose and collecting nothing at all. If Plaintiff lost, he would consider appealing, and may or may not have prevailed. This process would take years to resolve under normal circumstances, and even longer as a result of the Covid-19 shutdown and aftermath.

101. The settlement avoids these risks and provides an early resolution of a dispute, and Class Members will obtain a recovery in the relatively near future if the settlement is finally approved.

VII. ATTORNEYS' FEES AND COSTS

102. The Settlement Agreement provides for attorney's fees of up to 33.33% of the Gross Settlement (or \$183,333.33), subject to Court approval. This is fair, reasonable and adequate to compensate Class Counsel for the substantial work they have already done to prosecute this Action, the risk they assumed in agreeing to take the case in the first place, the great expense spared to the Classes by Class Counsel having achieved a successful resolution, and the continued time and expense that Class Counsel will incur by administering the fair distribution of the settlement fund should this Court grant the settlement's approval.

103. Class Counsel agreed to represent Plaintiff on behalf of the putative Classes on a contingency basis, and further agreed to advance all litigation costs. Our significant financial outlays would have been entirely lost if the case were not won, and the amount of Class Counsel's time that would have remained uncompensated in that event would have been substantial. Class Counsel also took on this case despite the known risks associated with Plaintiff's class allegations as described above and the unpredictable risks that are common to most complex employment class actions that develop only

1 over the course of the litigation. Class Counsel was able to obtain a very favorable settlement for the
2 Class Members.

3 104. Our firm has spent significant time litigating this case, including interviewing the named
4 Plaintiff, reviewing documents provided by Plaintiff prior to and after case initiation and information
5 obtained by our firm through our own research, filing a detailed complaint, engaging in informal
6 discovery, analyzing voluminous data produced by LSU, drafting a detailed mediation brief, attending a
7 full-day mediation, negotiating the settlement, drafting the preliminary approval papers; and planning
8 and strategizing throughout the case. Further, we will spend many additional hours obtaining preliminary
9 approval, overseeing the notice process, answering calls and questions from Class Members, preparing
10 the final approval papers, attending the final approval hearing, and overseeing the distribution of the
11 settlement funds.

12 105. The Settlement Agreement's award of litigation costs of up to \$20,000 is intended for
13 commonly reimbursed out-of-pocket cost incurred by my firm, including filing and process-serving fees,
14 expenses related to court appearances, copying, legal and other research charges, and the professional
15 fees paid to Louis Marlin for a full-day mediation session, which was instrumental to reaching the
16 Settlement.

17 106. If the Court grants Preliminary Approval and authorizes the dissemination of notice of the
18 settlement to the class, Class Counsel anticipates filing a Motion for Attorneys' Fees and Costs and
19 Enhancement Award for Class Representative that will be scheduled to be heard concurrently with the
20 Motion for Final Approval.

21 107. Class Counsel will submit their lodestar and costs breakdown with their motion for
22 attorneys' fees and costs, which will be noticed to be heard at the same time as the final approval motion.

23 **VIII. PLAINTIFF'S SERVICE AWARD**

24 108. The request for a Enhancement Award of \$10,000 to Plaintiff is reasonable and fair. The
25 Enhancement Award is intended to compensate Plaintiff for the critical role he played in this case and
26 the substantial time, effort, and risks he undertook in helping secure the result obtained on behalf of the
27 Settlement Classes (including attending a full-day mediation). The requested Enhancement Award falls
28 well within the range of incentive payments typically awarded to Class Representatives in similar class
actions. *See e.g., Pereltsvaig v. Stanford*, No. 17-CV-311521 (Santa Clara Cty. Super. Ct. Jan. 4, 2019)
(awarding \$7,500 incentive award); *Cellphone Termination Fee Cases*, 186 Cal. App. 4th 1380, 1393
(2010) (affirming incentive awards of \$10,000). In agreeing to serve as class representative, Plaintiff
formally agreed to accept the responsibility of representing the interests of all Class Members. He

1 collected and provided documents and diligently assisted Class Counsel in the investigation for the case
2 and in seeking informal discovery. Plaintiff's participation and assistance were critical to the success of
3 this litigation and the enforcement of Labor Code protections. Without Plaintiff's commitment to come
4 forward and serve as Class Representative in commencing this lawsuit, this litigation, which enforces the
5 protections of the Labor Code, would not have been brought. Significantly, the named Plaintiff is granting
6 Defendant a general release of all claims, which is far broader than the release being given by the
7 members of the Classes. Plaintiff also took on reputational risk by suing his former employer. Finally,
8 Plaintiff's claims are not antagonistic to the interests of the class. Defendant does not oppose this request.

9 **IX. SETTLEMENT ADMINISTRATOR**

10 109. The parties have selected CPT, Inc., to administer this settlement. CPT, Inc., has extensive
11 experience in the settlement administration of wage and hour class actions like this one, having
12 administered thousands of class action settlements, and my firm has retained them for the settlement
13 administration of many other wage and hour cases.

14 **X. CY PRES BENEFICIARY**

15 110. Subject to Court approval, the Interdisciplinary Center for Healthy Workplaces ("ICHW")
16 has been designated as the *cy pres* beneficiary and recipient of funds associated with uncashed checks.
17 ICHW is a non-profit organization that is dedicated to reinventing workplaces by integrating and applying
18 interdisciplinary sciences to achieve worker health and psychological well-being.

19 111. I certify that I do not have any connection to or relationship with ICHW that could
20 reasonably create the appearance of impropriety as between the selection of the recipient of the money
21 or thing of value and the interests of the class, nor does my law firm.

22 I declare under penalty of perjury under the laws of the United States and the State of California
23 that the foregoing is true and correct. Executed on August 11, 2021.

24
25
26
27
28


Julian Hammond

EXHIBIT 1

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

DEAN PARSONS, individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

LA SIERRA UNIVERSITY, a California Non-
Profit Corporation,

Defendant.

CASE NO. CVRI2000104

**CLASS ACTION SETTLEMENT
AGREEMENT**

1 This Class Action Settlement Agreement (“Settlement Agreement”) is made and entered into
2 between Plaintiff Dean Parsons (“Plaintiff” or “Class Representative”) on the one hand, individually and
3 on behalf of the Settlement Classes (as defined below) and the State of California, by and through
4 HammondLaw, P.C. (“Class Counsel”), and Defendant La Sierra University (“Defendant”) on the other
5 hand subject to the approval of the Court, as provided below. This Settlement Agreement is intended by
6 Plaintiff and Defendant to fully, finally, and forever resolve, discharge, and settle the Action (as defined
7 below) and Released Claims (as defined below), upon and subject to the terms and conditions hereof, as
8 follows:

9 **1. Definitions.**

10 As used herein, for the purposes of this Settlement Agreement only, the following terms will be
11 defined as set forth below:

12 1.1 “Action” refers to the civil action entitled *Dean Parsons v. La Sierra University* (Riverside
13 County Superior Court Case No. CVRI2000104).

14 1.2 “Adjunct Class Member” refers to all current or former employees who, during the Adjunct
15 Class Period, performed the duties of an Adjunct Faculty for LSU in California while not classified as
16 hourly non-exempt employees.

17 1.3 “Adjunct Class Period” means November 12, 2016 through to the date the Court grants
18 preliminary approval.

19 1.4 “Class Counsel” refers to the attorneys of record for the Class Representative, *i.e.*,
20 HammondLaw, P.C.

21 1.5 “Class Members” refers to all Adjunct Class Members and Reimbursement Class Members.

22 1.6 “Class Notice” refers to the form of direct-mail notices substantially in the form attached as
23 “**Exhibit A**,” as may be modified by the Court.

24 1.7 “Complaint” refers to the operative Second Amended Complaint in this Action, and any
25 Complaints subsequently filed in this Action.

26 1.8 “Court” refers to the California Superior Court for the County of Riverside.

27 1.9 “Defendant” or “LSU” means La Sierra University.
28

1.10 “Enhancement Award” refers to a monetary award to the Plaintiff, in an amount not to exceed Ten Thousand Dollars (\$10,000), or other lesser amount as approved by the Court, for his services as Class Representative, to be paid for from the Gross Settlement Amount, subject to approval by the Court, as described below.

1.11 “Final Approval Hearing” refers to the hearing at which the Court will make a final determination whether the terms of the Settlement are fair, reasonable, and adequate for the Class and meet all applicable requirements for approval.

1.12 “Final Approval Order” refers to the final order by the Court approving the Settlement following the Final Approval Hearing and entering final judgment.

1.13 “Final Effective Date” refers to the date the Final Approval Order is entered if no objections to the Settlement are filed. If objections are filed and overruled, and no appeal of the Final Approval Order is filed, then the Final Effective Date will be thirty (30) calendar days following date the Final Approval Order is entered. If an appeal is taken from the Final Approval Order overruling objections to the settlement, then the Final Effective Date will be twenty (20) calendar days after the appeal is withdrawn or after an appellate decision affirming the Final Approval Order becomes final.

1.14 “Gross Settlement Amount” (also referred to herein as “GSA”) refers to the maximum settlement payment of Five Hundred and Fifty Thousand Dollars (\$550,000) Defendant will be obligated to make, except that Defendant shall bear, in addition, all employer-side payroll tax payments due and payable to federal and state tax authorities as a result of this Settlement. The GSA includes all payments made to Settlement Class Members, Service Award payment to Class Representative, all Settlement Administration Costs, the PAGA Award, and attorneys’ fees and litigation costs and expenses to Class Counsel as approved by the Court.

1.15 “Net Settlement Amount” (also referred to herein as “NSA”) is the GSA minus Court-approved attorney’s fees and litigation costs, Settlement Administration Costs, Court-approved Enhancement Award, and the LWDA’s share of the amount of the GSA allocated to PAGA Award. The NSA is the maximum amount that will be available for distribution to Settlement Class Members.

1.16 "PAGA Award" refers to the Fifteen Thousand Dollars (\$15,000) set aside for the PAGA penalty, with 25% paid to the Class Members, and 75% payable to the Labor and Workforce Development Agency.

1.17 "Adjunct PAGA Period" means the period from October 20, 2019 through to the date the Court grants preliminary approval.

1.18 "Reimbursement PAGA Period" means the period from March 4, 2020 and the earlier of the date the Court grants preliminary approval or the date when LSU stops making the COVID reimbursement payments.

1.19 "Parties" are Plaintiff and Defendant.

1.20 "Reimbursement Class Member" refers to all current or former LSU employees in California, who, during the Reimbursement Class Period, worked remotely.

1.21 "Reimbursement Class Period" means the period between March 4, 2020 and the earlier of the date the Court grants preliminary approval or the date when LSU stops making the COVID reimbursement payments.

1.22 "Released Claims" are those defined in Section 16, below.

1.23 "Released Parties" include La Sierra University and any parent, subsidiary, affiliate, predecessor or successor, and all agents, trustees, employees, officers, directors and attorneys thereof.

1.24 "Response Deadline" refers to a date that is sixty (60) calendar days after the date that the Class Notice is mailed to Class Members and is the deadline by which Class Members' Requests for Exclusion, disputes regarding Credits, and/or objections must be postmarked in order to be timely.

1.25 "Request for Exclusion" refers to a request to be excluded from the Settlement, which must be made in writing in conformity with the requirements set forth in the Class Notice, the Court's order granting preliminary approval, and herein, and mailed to the Administrator and postmarked on or before the Response Deadline.

1.26 "Settlement Administrator" refers to CPT, Inc., the third-party administrator mutually selected by the parties, subject to approval by the Court, to perform the notice, claims administration, and distribution functions further described in this Settlement Agreement.

1.27 “Settlement Administration Costs” refers to the costs and expenses of the administrator, to perform its tasks and duties as provided by this Settlement Agreement. These costs will be paid out of the GSA in an amount not to exceed \$20,000. In the event that the Escalator Clause in Section 21 is triggered, and the Settlement Administration Costs exceed \$20,000 because of this, any remaining additional Settlement Administration Costs will be paid out of the GSA.

1.28 “Settlement Class Member” refers to Class Members who do not request exclusion from the Settlement pursuant to Section 12, below.

1.29 “Settlement Payment” refers to the amount paid to a Settlement Class Member.

2. Procedural History and Recitals.

2.1 On November 12, 2020, Plaintiff filed an action alleging putative class claims against Defendant for its (a) failure to pay wages for all hours worked as required under Labor Code §§ 226.2 and 1194 and IWC Wage Order No. 4-2001 § 4; (b) failure to authorize and permit paid rest breaks and pay premium pay as required under Labor Code §§ 226.2 and 226.7 and Wage Order No. 4-2001, §§ 4, 12; (c) failure to pay compensation due on discharge from employment in violation of Cal. Labor Code §§ 201-203; (d) failure to issue accurate itemized wage statements in violation of Cal. Labor Code §§ 226(a) and (e) and 226.2; (e) failure to reimburse business expenses in violation of Cal. Labor Code § 2802; and (f) unfair, unlawful, and/or fraudulent business practices in violation of Business & Professions Code § 17200, *et seq.* (“UCL”). On January 26, 2021 Plaintiff filed a First Amended Complaint (“FAC”) adding a cause of action for Private Attorneys General Act (“PAGA”) penalties under Cal. Labor Code §§ 2698 *et seq.* for the Labor Code violations alleged in the Complaint.

2.2 On June 14, 2021, the Parties participated in a mediation session with Louis Marlin, an experienced mediator who has mediated numerous wage-hour class and PAGA actions. There, the parties reached an agreement in principle.

2.3 On July 2, 2021 Plaintiff filed a Second Amended Complaint, adding a cause of action for failure to provide meal breaks as required under Labor Code § 512 and Wage Order No. 4-2001, § 11.

2.4 This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant of liability or wrongdoing, or that the Action was not barred in its entirety by the ministerial exception.

1 Defendant makes no admission of liability or wrongdoing by virtue of entering into this Agreement.
2 Additionally, Defendant reserves the right to contest any issues relating to class certification and liability
3 if the Settlement is not approved. Defendant denies that it has engaged in any unlawful activity, has failed
4 to comply with the law in any respect, has any liability to anyone under the claims asserted in the Action,
5 or that but for the Settlement, a Class should be certified in the Action. This Settlement, and Plaintiff's
6 and Defendant's willingness to settle the Action will have no bearing on, and will not be admissible in
7 connection with, any litigation between the parties (other than in connection with this Settlement).

8 2.5 As set forth above, without admitting any wrongdoing or liability, Defendant is willing to
9 agree to the terms of the Settlement in order to settle, compromise, and fully resolve the Action and
10 Released Claims (as defined below).

11 2.6 The Settlement will not constitute, in this or any other proceeding, an admission of any kind
12 by Defendant, including without limitation, that certification of a class is appropriate or proper or that
13 Plaintiff could establish any of the requisite elements for class treatment of any of the claims in the Action.
14 In the event that the Settlement is not finally approved, or the Settlement is otherwise terminated, and any
15 class and representative action, which were certified for settlement purposes only, shall be vacated, and
16 shall be of no force or effect whatsoever and shall not be admissible nor construed as an admission or
17 concession of any kind by the Parties, in whole or part, and Defendant expressly reserves all rights to
18 challenge certification of a class on all available grounds.

19 **3. Establishment of the GSA.**

20 This Settlement will be made on a non-claims-made basis and will be non-reversionary. Under no
21 circumstances will any of the GSA revert to Defendant. Defendant shall pay a total of no more than the
22 GSA, which will cover payment by Defendant pursuant to this Settlement Agreement, to Settlement Class
23 Members, Settlement Administration Costs, attorneys' fees and litigation costs to Class Counsel, and
24 Service Award to Plaintiff, except that Defendant shall pay, in addition, all employer-side payroll tax
25 payments (e.g., FICA, FUTA, etc.) due and payable to federal and state tax authorities as a result of this
26 Settlement. Within fifteen (15) days of the Final Effective Date, Defendant will deposit money into an
27 account, through the Settlement Administrator, in an amount equal to the GSA, plus Defendant's portion
28 of payroll taxes in connection with the wages portion of the NSA. Any interest accrued on the GSA will

1 be distributed to the Settlement Class except that if final approval is reversed on appeal, LSU is entitled
2 to prompt return of the principal and all interest accrued.

3 **4. Attorneys' Fees and Costs.**

4 Class Counsel shall request attorneys' fees up to 1/3 of the GSA, i.e., \$183,333.33 for attorneys'
5 fees; and up to \$20,000 for reimbursement of litigation costs. Defendant agrees to not oppose Class
6 Counsel's request for attorneys' fees and costs in these amounts. Defendant will not oppose a request for
7 attorneys' fees up to one-third of the GSA or a request for litigation costs and expenses of up to \$20,000,
8 but retains the right to oppose and requests above these amounts. The terms of this Settlement Agreement
9 will not be abrogated and will continue in full force even if the Court awards a lower amount of attorneys'
10 fees or costs than requested by Class Counsel. Any unapproved amount of attorneys' fees and litigation
11 costs will be added to the NSA and be distributed to the Settlement Class Members.

12 **5. Enhancement Award.**

13 Class Counsel shall request an Enhancement Award of up to \$10,000 for Plaintiff. Defendant
14 retains the right to object to an Enhancement Award in excess of this amount. The terms of this Settlement
15 Agreement will not be abrogated and will continue in full force even if the Court awards a lower
16 Enhancement Award than requested by Class Counsel. Any unapproved amounts will be added to the
17 NSA and be distributed to the Settlement Class Members.

18 **6. PAGA Award**

19 Subject to Court approval, \$15,000 shall be attributed to Plaintiff's claims under PAGA. The
20 Settlement Administrator shall apportion and distribute the PAGA payment as follows: (a) \$11,250 shall
21 be paid to the LWDA as its 75% share of the settlement of civil penalties for PAGA claims; and (b) \$3,750
22 shall be added to the NSA and distributed to the Class Members who worked during the relevant PAGA
23 Period as their 25% share of the settlement of civil penalties for PAGA claims.

24 **7. Costs of Settlement Administration.**

25 The Parties have mutually agreed to the selection of CPT ("Settlement Administrator"), to undertake
26 the administration of the Settlement in this Action. The costs of settlement administration shall not exceed
27 Twenty Thousand Dollars (\$20,000). In the event that the Escalator Clause is triggered, and the Settlement
28

Administration Costs exceed \$20,000 because of this, any remaining additional Settlement Administration Costs will be paid out of the GSA.

8. Calculation and Distribution of the NSA

8.1.1 This settlement is a “non-claims-made” settlement. Each Settlement Class Member will be entitled to a share of the NSA in accordance with the formula set forth below. Payments will be made from the NSA only to Settlement Class Members, as set forth herein.

8.1.2 The NSA is defined as the GSA, less Court-approved administration costs, attorney’s fees and costs, enhancement payment, and PAGA payment.

8.1.3 \$8,800 of the NSA will be allocated to the Reimbursement Class (“Reimbursement NSA”). Each Reimbursement Class Member will receive a pro rata share of the Reimbursement NSA. By way of example, if 176 Reimbursement Class members were to participate in the Settlement, each would receive \$50.00.

8.1.4 \$3,750 of the amount allocated to the PAGA claim (“PAGA Payment”) shall be paid to Class Members who worked for LSU in California during the Adjunct / Reimbursement PAGA Periods (“PAGA Group”). PAGA Payment shares will be paid to the PAGA Group on a per capita basis. Class Members who opt out from the Class will still receive their PAGA Payment share and will release the Released PAGA Claims.

8.1.5 The remainder of the NSA shall be distributed to the Adjunct Class (“Adjunct NSA”): Each Adjunct Class Member’s Settlement Payment will be calculated by dividing the number of credits taught by the Adjunct Class Member during the Adjunct Class Period as an Adjunct Faculty in California by all the number of credits taught by all Adjunct Class Members as an Adjunct Faculty in California during the Adjunct Class Period, and then multiplying the resulting figure by the Adjunct NSA. Zero-credit courses will be treated as one-credit courses for the purposes of this calculation. Adjunct Class Members’ credits will be weighted as follows: the credits taught as part of a course that was solely online will be reduced by one-quarter (i.e. they will be multiplied by 0.75).

8.2 The amount distributed to Settlement Class Members, plus all required withholdings, shall not exceed the NSA, except as contemplated in Section 3, above.

1 8.3 If an Adjunct Class Member timely and validly submits a Request for Exclusion, as set forth
2 herein, his or her share will return to the Adjunct NSA and will be distributed to the remaining Adjunct
3 Settlement Class Members. Similarly, if a Reimbursement Class Member timely and validly submits a
4 Request for Exclusion, as set forth herein, his or her share will return to the Reimbursement NSA and will
5 be distributed to the remaining Reimbursement Settlement Class Members. However, Class Members will
6 receive their portion of the PAGA Award, whether or not the Class Member opts out.

7 8.4 Payments to Class Members pursuant to this Settlement Agreement will not be construed as
8 compensation for purposes of determining eligibility for or benefit calculations of any health and welfare
9 benefit plan, retirement benefit plan, vacation benefit plan, unemployment compensation, including,
10 without limitation, all plans, subject to Employee Retirement Income Security Act ("ERISA"). The
11 Parties agree these payments do not represent any modification of any employee's previously-credited
12 hours of service or other eligibility criteria under any employee pension benefit plan, employee welfare
13 benefit plan, or other program or policy.

14 8.5 Within twenty-five (25) calendar days of the Final Effective Date, the Settlement
15 Administrator will pay all Class Members' Settlement Payments, and attorney's fees, costs, enhancement
16 payment, and administration costs, as approved by the Court.

17 8.6 Class Member Settlement Payment checks that are not cashed within one hundred and eighty
18 days (180) calendar days from the date of issuance by the Settlement Administrator, will be cancelled.
19 Class Members whose Class Member Settlement Payment checks are not timely cashed and which are
20 cancelled, will be deemed to have irrevocably waived any right in or claim to any payment under the
21 Settlement, but the settlement and their release of Released Claims will remain binding upon them. The
22 value of the cancelled Class Member Payment checks will be transmitted in conformity with California
23 Civil Procedure Code section 384, as follows: one-hundred percent (100%) to the non-profit organization
24 Interdisciplinary Center for Healthy Workplaces.

25 **9. Tax Treatment.**

26 9.1 Tax Treatment of Adjunct Class Payments: 20% of each Adjunct Settlement Payment will
27 be allocated as wages and reported on an IRS Form W-2; 40% will be allocated as penalties, and 40%
28 interest and reported on IRS Form 1099.

1 9.2 Tax Treatment of Reimbursement Class Member Payments: 100% of each Reimbursement
2 Settlement Payment will be deemed penalties and reported on an IRS Form 1099.

3 9.3 Employer's Portion of Payroll Taxes: Defendant shall pay the employer's portion of payroll
4 taxes with respect to the wage portion of Adjunct Class Payments separately and in addition to the GSA.

5 9.4 Tax Treatment of Service Award: Plaintiff will receive an IRS Form 1099 for his individual
6 Service Award and will be responsible for payment of any taxes owing on said amount.

7 9.5 Tax Treatment of Attorneys' Fees and Cost Award: Class Counsel will receive an IRS Form
8 1099 for any amount awarded to Class Counsel in the form of attorneys' fees or costs and will be
9 responsible for payment of any taxes owing on said amount.

10 9.6 No Tax Advice: Neither Plaintiff nor Defendant, nor the Parties' attorneys, shall give or are
11 giving any tax advice in connection with the settlement or any payments to be made pursuant to this
12 settlement. Each Settlement Class Member agrees to indemnify, and hold harmless Defendant from any
13 liability for taxes, fees, costs, or assessments resulting from his or her failure to timely pay his or her
14 share of taxes, interest, fees, or penalties owed.

15 **10. Notice Administration.**

16 10.1.1 Within ten (10) calendar days of the later of the Preliminary Approval Order or Court
17 approval of settlement notice to the class Defendant shall provide the Settlement Administrator with the
18 following information ("Class Data List"):

19 (a) the names, employment identification number, last known addresses, last known telephone
20 numbers, and Social Security numbers of each Class Member;

21 (b) the number of Credits being attributed to each Adjunct Class Member.

22 10.1.2 Upon its receipt of the Class Data List, the Settlement Administrator shall access the
23 National Change of Address ("NCOA") Database, and update the addresses contained therein.

24 10.1.3 Within thirty five (35) days of the later of the Preliminary Approval Order or Court
25 approval of settlement notice to the class, the Settlement Administrator shall provide the Class Notice by
26 bulk first class mail, forwarding requested, to the Class Members at the addresses identified through the
27 process described above.
28

1 10.1.4 As to any Class Notices that are returned as undeliverable, or where the NCOA
2 Database indicates that the last known address of any Class Member is invalid or otherwise undeliverable,
3 the Settlement Administrator will perform a skip trace procedure and re-mail all returned, undelivered
4 mail within five (5) calendar days of the date on which the Settlement Administrator is informed that a
5 Class Notice is undeliverable or otherwise invalid.

6 10.1.5 Other than the obligations set forth in this Settlement Agreement, Parties will have
7 no additional obligation to identify or locate any Class Member.

8 10.1.6 Parties will not be responsible for nor have any liability in connection with the
9 provision of Class Member data to the Settlement Administrator, outside of the obligations set forth in the
10 Settlement Agreement. The Settlement Administrator and all those working through, in concert with, or
11 on behalf of the Settlement Administrator, shall be obligated to take all reasonable steps to maintain the
12 confidentiality of Class Member information and to carry out the other duties enumerated in the Settlement
13 Agreement, including calculating each Class Member's potential share of the Settlement.

14 10.1.7 The Settlement Administrator shall provide Defendant's counsel and Class Counsel
15 with weekly summary reports, including the total number of Class Notices that were returned as
16 undeliverable, the total number of objections, and disputes regarding Credits, and/or Requests for
17 Exclusion. The Settlement Administrator shall maintain records of its work, which will be available for
18 inspection upon request by Defendant's counsel.

19 **11. Class Notice.**

20 11.1 The Class Notice will be a pre-printed notice, in substantially the form attached hereto as
21 **Exhibit A** and to be approved by the Court.

22 **12. Request for Exclusion.**

23 12.1 Any Class Member may elect to opt out of the Settlement by submitting a written Request
24 for Exclusion from the Settlement to the Settlement Administrator, postmarked no later than the Response
25 Deadline. The Request for Exclusion must contain the following: Class Member's full name, signature,
26 address, last four digits of his or her social security number, case name, case number, and a clear statement
27 that he or she seeks to be excluded from the Settlement. The Settlement Administrator shall immediately
28 send all Requests for Exclusion to Defendant's counsel and Class Counsel. A Class Member who fails to

1 comply with the opt-out procedure set forth herein on or before the Response Deadline will not be
2 excluded and will instead be bound by all provisions of the Settlement Agreement and all orders issued
3 pursuant thereto.

4 12.2 Any Class Member who elects to opt out of the Class in the manner and within the time limits
5 specified above and in the Class Notice: (1) will not have any rights under the Settlement Agreement; (2)
6 will not be entitled to receive any compensation under the Settlement Agreement; (3) will not have
7 standing to submit any objection to the Settlement Agreement; and (4) will not be bound by the Settlement
8 Agreement, subject to the following exception: Class Members who worked during the relevant PAGA
9 Period will receive their portion of the PAGA Award, whether or not the Class Member opts out.

10 12.3 Except for persons who elect to opt out of the Settlement in the manner and within the time
11 limits specified above, in the Preliminary Approval Order, and in the Class Notice, all Class Members,
12 will be deemed to be within the Class for all purposes under this Settlement Agreement, will be bound by
13 the terms and conditions of this Settlement Agreement, including all orders issued pursuant thereto.

14 12.4 If the Settlement Agreement is given final approval, it will operate as a full, complete, and
15 final release of all the Released Claims of the Class Representative and all Settlement Class Members,
16 and as an effective covenant not to sue.

17 **13. Objections.**

18 Any Class Member who does not request exclusion from the Settlement may object to the
19 Settlement Agreement by sending the Settlement Administrator, not later than the Response Deadline, a
20 written statement objecting to the Settlement. The written objection must contain: Class Member's full
21 name, address, last four digits of his or her social security number, case name, case number, and a clear
22 statement of the basis for his or her objection. The Settlement Administrator shall immediately send all
23 objections to counsel for Defendant and Class Counsel.

24 Counsel for the Parties shall file any responses to any objections at the time the Motion for Final
25 Approval is filed. Class Members may, prior to the Final Approval Hearing, withdraw their objections or
26 opt out requests in a writing to the Settlement Administrator, which may then be filed with the Court.

27 All Parties and their counsel will not seek to solicit or otherwise encourage any Class Member to
28 submit an opt out request or objection, nor encourage any Class Member to appeal from the final judgment.

1 **14. Resolution of Disputes.**

2 If a Class Member timely disputes the number of Credits listed on his or her Class Notice, the
3 dispute will be submitted to the Settlement Administrator, who will examine the records and either verify
4 the calculation or provide a corrected calculation. Disputes must be in writing that is submitted to the
5 Settlement Administrator, postmarked on or before the Response Deadline. The dispute must contain:
6 Class Member's full name, address, signature, last four digits of his or her Social Security number, case
7 name and number, and any facts supporting the Class Member's dispute, along with any supporting
8 materials confirming that the Credits attributed to him or her are incorrect. The Settlement Administrator's
9 determination of disputes will be final and non-appealable.

10 **15. Non-Materiality of Attorneys' Fees, Costs and Enhancement Award.**

11 Any denial or reduction in amount by the Court of the application for attorneys' fees and litigation
12 costs, Enhancement Award, and/or Settlement Administration Costs will in no way affect the validity the
13 remainder of this Settlement Agreement, or give rise to a right to abrogate this Settlement Agreement.

14 **16. Release of Claims:**

15 16.1 Adjunct Released Claims: Upon issuance of the Settlement Payments to the Adjunct
16 Class, each Adjunct Class Member releases Released Parties from any and all claims, debts, liabilities,
17 demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, damages, actions
18 or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any
19 legal theory under state law for any alleged failure to pay all wages due (including minimum wage and
20 overtime wages), failure to pay for all hours worked (including off-the clock and on-call work), failure to
21 provide meal and authorize and permit rest periods, short/late meal and rest periods, failure to relieve of all
22 duties during meal and rest periods, failure to reimburse business expenses, failure to timely pay wages and
23 final wages, failure to furnish accurate wage statements including claims derivative and/or related to these
24 claims, liquidated damages, and conversion of wages, up to and including the date of preliminary approval
25 by the Court. This Release shall include, claims that were raised, or that reasonably could have been raised
26 based on the facts and allegations in the Complaint. This Release shall include all claims and theories arising
27 under the applicable regulations, Wage Orders and Labor Code, as well as claims under Business and
28

1 Professions Code §§ 17200 *et seq.*, and/or Labor Code §§ 2698 *et seq.* based on violations of the above Labor
2 Code provisions. This release shall apply to all claims arising at any point during the Adjunct Class Period.

3 16.2 **Reimbursement Released Claims:** Upon issuance of the Settlement Payments to the
4 Reimbursement Class, each Reimbursement Class Member releases Released Parties from any and all
5 claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses,
6 attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or
7 unknown, contingent or accrued, under any legal theory under state law for any alleged failure to
8 reimburse business expenses, including claims derivative and/or related to that claim, up to and including
9 the date of preliminary approval by the Court. This Release shall include, reimbursement-related claims
10 that were raised, or that reasonably could have been raised based on the facts and allegations in the
11 Complaint. This Release shall include all claims and theories arising under the applicable regulations,
12 Wage Orders and Labor Code, as well as claims under Business and Professions Code §§ 17200 *et seq.*,
13 and/or Labor Code §§ 2698 *et seq.* based on violations of the above Labor Code provisions. This release
14 shall apply to all claims arising at any point during the Reimbursement Class Period.

15 16.3 **Plaintiff's General Release:** In addition to the Released Claims, Plaintiff shall be bound by
16 a complete and general release of all claims under any and all applicable federal and state laws and/or
17 regulations as to Released Parties, and shall also be bound by a California Civil Code § 1542 release and
18 waiver of all claims known and unknown, without exception, except as may be prohibited by law, such as
19 claims for workers' compensation benefits. California Civil Code section 1542 reads as follows:

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

23 **17. Application for Preliminary Approval.**

24 17.1 After the Parties' execution of this Settlement Agreement, Plaintiff shall file a motion for
25 preliminary approval of the Settlement, requesting a Preliminary Approval Order that contains the
26 following provisions:

27 17.1.1 preliminarily approving the Settlement Agreement and its terms;

28 17.1.2 preliminarily approving and certifying the Class for settlement purposes only;

1 17.1.3 approving the form of the Class Notice, and finding that the proposed method of
2 disseminating the Class Notice meets the requirements of due process and is the best notice practicable
3 under the circumstances;

4 17.1.4 establishing the procedures and the deadline by which Settlement Class Members
5 may assert objections to the Settlement, seek exclusion from the Settlement, and/or dispute their
6 Settlement Shares; and

7 17.1.5 setting a date for the Final Approval Hearing.

8 17.2 Counsel for Defendant will be given an opportunity to review and comment on the motion
9 for preliminary approval of the Settlement prior to its being filed with the Court, and such comments will
10 be implemented to the extent reasonable.

11 **18. Final Approval Order and Final Judgment.**

12 18.1 If the Settlement is preliminarily approved by the Court, the Parties shall thereafter request
13 that the Court enter an order granting final approval of the Settlement and judgment based thereon (“Final
14 Approval Order and Judgment”), which includes the following provisions:

15 18.1.1 confirming certification of the Class for settlement purposes only;

16 18.1.2 finding that the dissemination of the Class Notice in the form and manner ordered by
17 the Court was accomplished as directed, met the requirements of due process; and

18 18.1.3 finally approving the Settlement Agreement and the Settlement as fair, reasonable
19 and adequate and directing consummation of the Settlement in accordance with its terms and provisions;

20 18.1.4 directing the Parties to implement the terms of the Settlement Agreement;

21 18.1.5 releasing and discharging the Released Parties from any and all liability with respect
22 to the Released Claims as hereinabove provided;

23 18.1.6 resolving and settling all the Released Claims by the Class Representative and all
24 Settlement Class Members, as herein above provided, with the release precluding them from instituting,
25 commencing, or continuing to prosecute, directly or indirectly, as an individual or collectively,
26 representatively, derivatively, or on behalf of himself or herself, or in any other capacity of any kind
27 whatsoever, any action in this Court, any other state court, or any arbitration or mediation proceeding or
28 any other similar proceeding, against any of the Released Parties, that asserts any Released Claims.

1 18.1.7 awarding reasonable attorneys' fees and litigation costs to Class Counsel as
2 determined by the Court;

3 18.1.8 awarding an Enhancement Award to Class Representative as determined by the
4 Court;

5 18.1.9 awarding Settlement Administration Costs to the Settlement Administrator as
6 determined by the Court and other administration costs as provided herein;

7 18.1.10 approving the allocation of PAGA Penalties to the LWDA;

8 18.1.11 entering final judgment on the Complaint; and

9 18.1.12 preserving continuing and exclusive jurisdiction over all matters related to the
10 administration and consummation of the terms of this Settlement and enforcement of the Judgment.

11 18.2 Counsel for Defendant will be given an opportunity to comment on the motion for final
12 approval of the Settlement prior to its being filed with the Court, and such comments will be implemented
13 to the extent reasonable.

14 **19. Effect of Settlement Not Being Final.**

15 In the event that the Settlement does not become final, then the Settlement Agreement will become
16 null and void, and all negotiations, proceedings, and statements relating thereto will be without prejudice
17 as to the rights of any and all Parties hereto, and all Parties and their respective predecessors and successors
18 will be deemed to have reverted to their respective positions in the Action as of the date and time
19 immediately prior to the execution of this Settlement Agreement. If the Court does not approve either
20 preliminarily or finally any material term or condition of the Settlement Agreement, or if the Court effects
21 a material change to the Parties' settlement (including but not limited to the scope of release to be granted
22 by Class Members or the binding effect of the Settlement on Class Members), the Parties shall work
23 together in good faith to address any concerns raised by the Court and propose a revised Settlement for
24 the Court's approval.

25 **20. Tolerance of Requests for Exclusion.**

26 Defendant shall retain the right, in the exercise of its sole discretion, to nullify the Settlement if ten
27 percent (10%) or more of Class Members opt out of the Settlement. Defendant must provide written
28 notice to Class Counsel of its withdrawal within thirty (30) calendar days of the Response Deadline. All

signatories and their counsel agree not to encourage opt-outs. Class Counsel and Defendant specifically agree not to solicit opt-outs, directly or indirectly, through any means. If Defendant exercises its rights under this Section, it shall be solely responsible for the costs incurred for settlement administration up to the date of nullification.

21. Escalator Clause.

21.1 If the total number of Adjunct Class Members exceed 363 by more than 10% (i.e. more than 399), then the GSA attributed to Adjunct Class Members (i.e., \$541,200) shall be increased proportionally for each additional Adjunct Settlement Class Member above the ten percent (10%) threshold. For example, if the number of Adjunct Settlement Class members increases by twelve percent (12%), the GSA attributed to Adjunct Class Members shall be increased by two percent (2%).

22.2. If the total number of Reimbursement Class Members exceed 176 by more than 10% (i.e. more than 194), then the portion of the GSA attributed to Reimbursement Class Members (i.e. \$8,800) shall be increased proportionally for each additional Reimbursement Settlement Class Member above the ten percent (10%) threshold.

22. No Admissions.

The Parties understand and agree that this Settlement Agreement is the result of a good faith compromise settlement of disputed claims, and no part of this Settlement Agreement, or any conduct or written or oral statements made in connection with this Settlement and this Settlement Agreement, including the unfinished Memorandum of Understanding, whether or not the Settlement is finally approved and/or consummated, or the negotiations leading to the Settlement Agreement, or any document filed in support thereof, should be construed as an admission or concession of any kind by Defendant or any of the Released Parties.

23. Avoidance of Undue Publicity.

Except as required to obtain preliminary or final approval in this case, Plaintiff and Class Counsel agree not to publicize the amount or other terms of this settlement to any person. Nothing herein will restrict Class Counsel from including publicly available information regarding this settlement in future judicial submissions regarding Class Counsel's qualifications and experience.

1 **24. Non-Disparagement.**

2 Defendant agrees that all inquiries about Plaintiff's employment with Defendant shall be referred
3 to Defendant's Director of Human Resources, who will confirm Plaintiff's dates of employment. No other
4 comments shall be made about Plaintiff or his work history.

5 **25. Construction.**

6 This Settlement Agreement was entered into after substantial good faith, arm's-length negotiations
7 between the Parties. This Settlement Agreement has been entered into without any coercion and under no
8 duress. The Parties acknowledge and agree that all Parties had an equal hand in drafting this Settlement
9 Agreement so that it will not be deemed to have been prepared or drafted by one party or another.

10 **26. Due Authority of Attorneys.**

11 Each of the attorneys executing this Settlement Agreement on behalf of one or more Parties hereto
12 warrants and represents that he or she has been duly authorized and empowered to execute this Settlement
13 Agreement on behalf of each such respective Party and to bind them to the terms hereof. The parties also
14 warrant that this Agreement is entered into knowingly and willingly and there is no fraud, duress, or undue
15 influence.

16 **27. Entire Agreement.**

17 This Settlement Agreement (including Exhibits hereto) sets forth the entire agreement of the
18 Parties with respect to its subject matter and supersedes any and all other prior agreements and all
19 negotiations leading up to the execution of this Settlement Agreement, whether oral or written, regarding
20 the subjects covered herein. The Parties acknowledge that no representations, inducements, warranties,
21 promises, or statements relating to the subjects covered herein, oral or otherwise, have been made by any
22 of the Parties that are not embodied or incorporated by reference herein. Except as otherwise set forth in
23 this Agreement, any notice, order, judgment, or other exhibit that requires approval of the Court must be
24 approved without material alteration that substantially changes or increases the cost of compliance with
25 this Settlement Agreement in order for this Settlement Agreement to become effective. Before invoking
26 this provision to challenge the effectiveness of this Settlement Agreement, the invoking party shall consult
27 with, and if necessary mediate in good faith with, the other party in an effort to resolve any such challenge.
28

1 **28. Modification or Amendment.**

2 This Settlement Agreement may not be modified or amended except in a writing signed by all
3 signatories hereto or their attorneys or their successors in interest.

4 **29. Successors.**

5 This Settlement Agreement will be binding upon and inure to the benefit of the Parties hereto and
6 their respective heirs, executors, administrators, successors and assigns, and upon any corporation,
7 partnership or other entity into or with which any Party hereto may merge, combine, or consolidate.

8 **30. Counterparts.**

9 This Settlement Agreement may be executed in counterparts, each of which will be deemed an
10 original, and all of which together will constitute one and the same instrument.

11 **31. Waivers.**

12 The waiver by any Party of any breach of this Settlement Agreement will not be deemed or
13 construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this
14 Settlement Agreement.

15 **32. Governing Law.**

16 This Settlement Agreement will be governed by and construed, enforced, and administered in
17 accordance with the internal laws of the State of California.

18 **33. Headings.**

19 The headings contained in this Settlement Agreement are for convenience and reference purposes
20 only, and will not be given weight in its construction.

21 **34. Notices.**

22 Any notices, requests, demands, or other communications required or permitted to be given
23 pursuant to this Settlement Agreement, other than the contemplated Class Notice to the Class Members,
24 must be in writing and mailed as follows:

25 To Class Counsel to the attention of Julian Hammond, Esq., HammondLaw, P.C., 11780 W
26 Sample Rd., Suite 103, Coral Springs, FL 33065; Telephone: (310) 601-6766.

27 To Defendant and counsel for Defendant, to the attention of Andrew McNaught, Esq., Seyfarth
28 Shaw, 560 Mission Street, Suite 3100, San Francisco, CA 94105-2930; Telephone: (415) 544-1022.

1
2
3
4 **IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on**
5 **behalf of the Parties, as follows:**
6

7 **Plaintiff and Proposed Class Representatives**

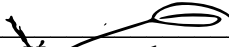
8 Dated: _____, 2021 By: Dean Parsons
9 Dean Parsons
10 Plaintiff

11 **La Sierra University**

12
13 Dated: _____, 2021 By: _____
14 Name: David Geriguis
15 Title: CFO, Vice President - Finance
16 On behalf of Defendant

17 ***APPROVED AS TO FORM:***

18 **Counsel for Plaintiff and Proposed Class Counsel**

19 Dated: August 5, 2021 By: 
20 Julian Hammond
21 HammondLaw, P.C.
22 Counsel for Plaintiff

23 **Counsel for Defendant**

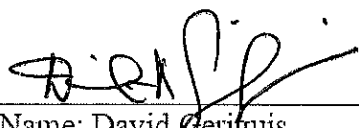
24 Dated: _____, 2021 By: _____
25 Andrew M. McNaught
26 Seyfarth Shaw LLP
27 Counsel for Defendant
28

1
2
3
4 **IN WITNESS WHEREOF, this Settlement Agreement has been duly executed by and on**
5 **behalf of the Parties, as follows:**
6

7 **Plaintiff and Proposed Class Representatives**

8 Dated: _____, 2021 By: _____
9 Dean Parsons
10 Plaintiff

11 **La Sierra University**

12 Dated: 8/9, 2021 By: 
13 Name: David Geriguis
14 Title: CFO, Vice President - Finance
15 On behalf of Defendant

16 ***APPROVED AS TO FORM:***

17 **Counsel for Plaintiff and Proposed Class Counsel**

18 Dated: _____, 2021 By: _____
19 Julian Hammond
20 HammondLaw, P.C.
21 Counsel for Plaintiff

22 **Counsel for Defendant**

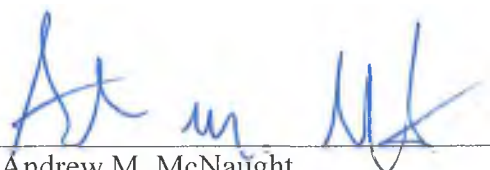
23 Dated: August 9, 2021, 2021 By: 
24 Andrew M. McNaught
25 Seyfarth Shaw LLP
26 Counsel for Defendant
27
28

Exhibit A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL APPROVAL

Parsons v. La Sierra University

(California Superior Court, County of Riverside Case No. CVRI2000104)

As a current or former Adjunct Faculty Member of La Sierra University in California, or a current or former employee who worked from home for La Sierra University in California, you are entitled to receive money from a class action settlement.

Please read this Notice carefully. This Notice relates to a proposed settlement of class action litigation. If you are a Class Member, it contains important information about your right to receive a payment from the Settlement fund.

You have received this Notice of Class Action Settlement because La Sierra University's ("Defendant" or "LSU") records show you are an "Adjunct Class Member" or a "Reimbursement Class Member" and therefore entitled to a payment from this class action Settlement. "Adjunct Class Member" refers to all current or former employees who performed the duties of an Adjunct Faculty for LSU in California, at any time between November 12, 2016 and [Prelim App. Date], while not classified as hourly non-exempt employees. "Reimbursement Class Member" refers to all individuals who worked remotely for LSU in California at any time between March 4, 2020 and [Prelim App. Date].

- The settlement resolves a class-action lawsuit, *Parsons v. La Sierra University* (the "Lawsuit"), which alleges that Defendant: (1) failed to pay Adjunct Class Members for all hours worked, (2) failed to provide Adjunct Class Members legally-compliant meal and rest breaks under California law, (3) failed to pay Adjunct Class Members all wages owed upon discharge from employment, (4) failed to furnish Adjunct Class Members accurate itemized wage statements, and (5) failed to reimburse Adjunct Class Members who taught courses online both before and during the Covid-19 pandemic for business expenses. The Lawsuit also alleges that Defendant failed to reimburse Reimbursement Class Members for business expenses related to working from home during the Covid-19 pandemic.
- On [REDACTED], the Riverside County Superior Court granted preliminary approval of this class action Settlement and ordered that all Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Lawsuit. LSU vigorously denies the claims in the Lawsuit and contends that it fully complied with all applicable laws.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment, and give up your legal rights to pursue claims released by the settlement of the Lawsuit.
OPT OUT OF THE SETTLEMENT	Exclude yourself from the Settlement, get no payment other than your share of PAGA civil penalties as described below, and retain your legal rights to pursue claims that would otherwise be released by the settlement of the Lawsuit.
OBJECT TO THE SETTLEMENT	If you do not opt out, you may write to the Settlement Administrator, CPT, Inc., about why you object to the settlement and they will forward your concerns to counsel which will then be provided to the Court. If the Court approves

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

	the Settlement despite your objection, you will still be bound by the Settlement. You or your attorney may also address the Court during the Final Approval hearing scheduled for [DATE AND TIME] in the Murrieta Courthouse of Riverside County Superior Court.
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The Final Fairness and Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at [REDACTED] .m. on [REDACTED], in Dept. S302, Southwest Justice Center, located at 30755-D Auld Road, Murrieta, CA 92563. You are not required to attend the Hearing, but you are welcome to do so.

Why Am I Receiving This Notice?

Defendant's records show that: (1) you currently work, or previously worked, for LSU in California as an Adjunct faculty member between November 12, 2016 and [Prelim App. Date] and/or (2) worked remotely for LSU in California between March 4, 2020 and [Prelim App. Date]. You were sent this Class Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options before the Court decides whether to finally approve the settlement. If the Court approves the settlement and then any objections and appeals are resolved, a "Settlement Administrator" appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

What Is This Case About?

Dean Parsons worked as an adjunct instructor for LSU in California. He is the "Plaintiff" in this case and is suing on behalf of himself and Adjunct Class Members for LSU's alleged failure to pay all wages due for all hours worked, failure to provide Adjunct Class Members with legally-compliant rest and meal breaks, failure to pay all wages owed upon separation from employment, failure to furnish timely and accurate wage statements, and failure to reimburse necessary business expenses in connection with teaching courses online both before and during the pandemic. Plaintiff also alleges that LSU failed to reimburse Adjunct Class Members and Reimbursement Class Members for their necessary business expenses in connection with working remotely from home during the Covid-19 pandemic.

LSU denies all of the allegations made by Plaintiff and denies that it violated any law. The Court has made no ruling on the merits of Plaintiff's claims. The Court has only preliminarily approved a Class Action Settlement Agreement. The Court will decide whether to give final approval to the Settlement at the Final Fairness and Approval Hearing.

Summary of the Settlement Terms

Plaintiff and LSU have agreed to settle this case on behalf of the Class for the Gross Settlement Amount of \$550,000. The Gross Settlement includes: (1) Administration Costs up to \$20,000; (2) a service payment of up to \$10,000 to Plaintiff for his time and efforts in pursuing this case and in exchange for a general release of claims against LSU he has agreed to enter into; (3) fees of up to 1/3 of the Settlement Amount (\$183,333.33) and up to \$20,000.00 in litigation costs to Class Counsel; and (4) payment allocated to PAGA penalties in the amount of \$15,000 (with \$11,250 to be paid to the Labor and Workforce Development Agency ("LWDA") and 25% paid pro rata to those Adjunct Class Members who worked during the Adjunct PAGA Period (defined as October 20, 2019 to [Prelim App. Date] and Reimbursement Class Members who worked during the Reimbursement PAGA Period (March 4, 2020 and [preliminary approval]). After deducting these sums, a total of approximately \$[REDACTED] will be available for distribution to Class Members ("Net Settlement Amount"). In addition to

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

the Gross Settlement Amount, Defendant will bear all employer-side payroll tax payments due and payable to federal and state tax authorities as a result of this Settlement.

Distribution to Class Members

The Net Settlement available for distribution to Class Members will be determined by deducting from the Gross Settlement Amount the combined total of any court-awarded attorneys' fees and costs, settlement administration costs, service award to the named Plaintiff, and the amount paid to the LWDA.

\$8,800 of the Net Settlement Amount shall be allocated to the Reimbursement Class and paid to Reimbursement Class Members on a per capita basis.

\$3,750 of the amount allocated to the PAGA claim ("PAGA Payment") shall be paid to Class Members who worked for LSU in California during the Adjunct / Reimbursement PAGA Periods ("PAGA Group"). PAGA Payment shares will be paid to the PAGA Group on a per capita basis. If you Opt Out from the Class, you will still receive your PAGA Payment share and will release the Released PAGA Claims.

The \$_____ remaining from the Net Settlement Amount shall be allocated to the Adjunct Class and shall be paid to Adjunct Class Members pro-rata based on the number of credits that they taught during the Adjunct Class Period in proportion to the credits taught by all Adjunct Class Members. Adjunct Class Members' credits will be weighted as follows: the credits taught as part of a course that was solely online will be reduced by one-quarter (i.e. they will be multiplied by 0.75). Zero-credit courses will be treated as one-credit courses for the purposes of this calculation.

Your Estimated Settlement Award

Defendant's records show that you [ARE/ ARE NOT] a member of the {Reimbursement} Class. Your share of the Net Settlement allocated to the Reimbursement Class is [\$\$\$].

Defendant's records also show that you [ARE/ ARE NOT] a member of the {Adjunct} Class and taught a total of: << CREDIT HOURS>> during the Adjunct Class Period. Defendant's records show that <<XX CREDITS WERE TAUGHT SOLELY ONLINE>> and a 0.75 multiplier has therefore been applied to these credits. Based on this information, your share of the Net Settlement allocated to Adjuncts is approximately \$<< AMOUNT>>.

Finally, Defendant's records show that [ARE/ ARE NOT] a member of the PAGA Group. Your share of the PAGA Payment is [\$3,750/PAGA Group Size].

If you believe this information is incorrect and wish to dispute it, you must mail a dispute to the Settlement Administrator no later than RESPONSE DEADLINE. Please include any documentation you have that you contend supports your dispute.

Tax Reporting

For tax reporting purposes, the payments monies paid to the Adjunct Class will be allotted 20% to wages and 80% to penalties and interest. Payout to the Reimbursement Class will be allotted 100% to penalties.

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

Please consult a tax advisor regarding the tax consequences of your Settlement Award. This notice is not intended to provide legal or tax advice on your Settlement Share.

Claims That You Are Releasing Under the Settlement

Adjunct Released Claims: If finally approved by the Court, each Adjunct Class Member who does not request exclusion from the Settlement will be bound by all of the terms of the Settlement, and will release LSU from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under state law for any alleged failure to pay all wages due (including minimum wage and overtime wages), failure to pay for all hours worked (including off-the clock and on-call work), failure to provide meal and authorize and permit rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, failure to reimburse business expenses, failure to timely pay wages and final wages, failure to furnish accurate wage statements including claims derivative and/or related to these claims, liquidated damages, and conversion of wages, up to and including the date of preliminary approval by the Court. This Release shall include, claims that were raised, or that reasonably could have been raised based on the facts and allegations in the Complaint. This Release shall include all claims and theories arising under the applicable regulations, Wage Orders and Labor Code, as well as claims under Business and Professions Code §§ 17200 *et seq.*, and/or Labor Code §§ 2698 *et seq.* (i.e., PAGA) based on violations of the above Labor Code provisions. This release shall apply to all claims arising at any point during the Adjunct Class Period.

Reimbursement Released Claims: If finally approved by the Court, each Reimbursement Class Member who does not request exclusion from the Settlement will be bound by all of the terms of the Settlement, and will release LSU from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under state law for any alleged failure to reimburse business expenses, including claims derivative and/or related to that claim, up to and including the date of preliminary approval by the Court. This Release shall include, reimbursement-related claims that were raised, or that reasonably could have been raised based on the facts and allegations in the Complaint. This Release shall include all claims and theories arising under the applicable regulations, Wage Orders and Labor Code, as well as claims under Business and Professions Code §§ 17200 *et seq.*, and/or Labor Code §§ 2698 *et seq.* (i.e., PAGA) based on violations of the above Labor Code provisions. This release shall apply to all claims arising at any point during the Reimbursement Class Period.

Your Options Under the Settlement

Option 1 – Do Nothing and Receive Your Payment

If you do not opt out, you are automatically entitled to your Settlement Check because you are a Class Member. If you do not dispute your pay checks calculation and do not opt out of the settlement, you will be bound by the settlement and receive a settlement payment. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment set forth above.**

Plaintiff and all Class Members who do not submit a valid and timely opt out (pursuant to Section 2 below), will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties (including LSU and any parent, subsidiary, affiliate, predecessor or successor, and all agents, employees, officers, directors and attorneys thereof) of all Released Claims they may have or had, as described above.

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the Settlement, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must expressly and clearly indicate that you do not want to participate in the Settlement, and you desire to be excluded from the Settlement. The written request for exclusion must include your name, address, telephone number, case name and number, and last four digits of your Social Security Number. Sign, date, and mail your written request for exclusion by U.S. First-Class Mail to the address below. If you Opt Out from the Class, you will still receive your PAGA Payment Share and will release the Released PAGA Claims.

CPT, Inc.

The written request to be excluded from the Settlement must be postmarked or received by the Administrator not later than **[RESPONSE DEADLINE]**. If you exclude yourself from the Settlement then you will get no payment, and retain your legal rights to pursue claims that would otherwise be released by the settlement of the Lawsuit.

Option 3 – File an Objection to the Settlement

If you wish to object to the Settlement you may file an objection in writing stating why you object to the Settlement. Your objection must provide your full name, address and telephone number, case name and number, the last four digits of your Social Security Number, the case number and name, and your reasons why you think the Court should not approve the settlement. Your objection must be mailed the Administrator no later than **[RESPONSE DEADLINE]**. Please note that you cannot both object to the Settlement and exclude yourself. If the Court overrules your objection, you will be bound by the settlement and will receive your Settlement Share.

Final Fairness Hearing

You may, if you wish, also appear at the Final Fairness and Approval Hearing set for [REDACTED] at [REDACTED].m. in Dept S302, Southwest Justice Center, 30755-D Auld Road, Murrieta, CA 92563, and discuss your objections with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the Hearing at your own expense.

Additional Information

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may visit [www.\[REDACTED\].com](http://www.[REDACTED].com), call the Settlement Administrator at **[PHONE NUMBER]**, or Class Counsel at:

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Questions? Contact the Settlement Claims Administrator toll free at **[XXX-XXX-XXXX]**

Tel: (310) 601-6766
Fax: (310) 295-2385

You may also refer to the pleadings, the Settlement Agreement, and other papers filed in this case, which may be inspected at the Office of the Clerk of Riverside County Superior Court, located at [ADDRESS], during regular business hours of each court day.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator or Class Counsel.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE,
LSU, OR LSU'S
ATTORNEYS WITH INQUIRIES.**

Questions? Contact the Settlement Claims Administrator toll free at XXX-XXX-XXXX

EXHIBIT 2

Approved California Wage and Hour Cases

- ***Pillow et al. v. Pepperdine University***, Case No. 19STCV33162 (Los Angeles Superior Court) (July 28, 2021)(certifying HammondLaw as class counsel for \$940,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, and 203 claims on behalf of approximately 1,547 adjunct instructors);
- ***Moore et al v Notre Dame De Namur University***, Case No. 19-CIV-04765 (San Mateo County Superior Court) (July 1, 2021) (certifying HammondLaw as class counsel for \$882,880 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, and 203 claims on behalf of approximately 397 adjunct instructors);
- ***Mooiman et al. v Saint Mary's College of California***, Case No. C19-02092 (Contra Costa County Superior Court) (June 10, 2021) (certifying HammondLaw as class counsel for \$1,700,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, and 203 claims on behalf of approximately 760 adjunct instructors and Labor Code Code § 226(a) claim on behalf of 2,212 other employees);
- ***Peng v The President and Board of Trustees of Santa Clara College***, Case No. 19CV348190 (Santa Clara County Superior Court) (April 21, 2021) (certifying HammondLaw as class counsel for \$1,900,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, and 203 claims on behalf of approximately 1,017 adjunct instructors and Labor Code Code § 226(a) claim on behalf of 5,102 other employees);
- ***Morse v Fresno Pacific University***, Case No. 19-CV-04350 (Merced County Superior Court) (April 6, 2021) (certifying HammondLaw as class counsel for \$1,534,725 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, 512 and 203 claims on behalf of approximately 861 adjunct instructors);
- ***Miner, et al. v. ITT Educational Services, Inc.***, Case No. 3:16-cv-04827-VC (N.D. Cal.) (March 19, 2021) (certifying HammondLaw as class counsel for \$5.2 million settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7, 512 and 2802 claims on behalf of approximately 1,154 adjunct instructors);
- ***Harris-Foster v. University of Phoenix***, Case No. RG19019028 (Alameda County Superior Court, March 17, 2021) (certifying HammondLaw as class counsel for \$2,863,106 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7 and 2802 putative class action on behalf of approximately 3,447 adjunct instructors);
- ***Granberry v. Azusa Pacific University***, Case No. 19STCV28949 (Los Angeles County Superior Court, March 5, 2021) (certifying HammondLaw as class counsel for \$1,112,100 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7 and 2802 claims on behalf of approximately 1,962 adjunct instructors);
- ***Ott v. California Baptist University***, Case No. RIC1904830 (Riverside County Superior Court, January 26, 2021) (certifying HammondLaw as co-class counsel for \$700,000 settlement of Labor Code §§ 1194, 226(a), 226.2, 226.7 and 512 claims on behalf of approximately 958 adjunct instructors);

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- ***Pereltsvaig v. Cartus Corporation***, Case No. 19CV348335 (Santa Clara County Superior Court, January 13, 2021) (certifying HammondLaw as class counsel in \$300,000 settlement of Labor Code §§ 226.8(a), 1194, 226(a), 226.7, 510, 512, and 2802 claims on behalf of 126 instructors);
- ***Morrison v. American National Red Cross***, Case No. 19-cv-02855-HSG (N.D. Cal., January 8, 2021) (certifying HammondLaw as class counsel in a \$377,000 Settlement of Labor Code §§ 1194, 226(a), 226.7, 510, 512 and 2802 claims on behalf of 377 instructors who taught training courses);
- ***Brown v. Cernx and Amazon***, Case No. JCCP004971 (Cal. Sup. Ct. Alameda Cty. July 14, 2020) (certifying HammondLaw as co-class counsel in \$350,000 settlement of Labor Code §§ 1194, 226, 226.7, 510, 512, and 2802 claims on behalf of approximately 309 couriers);
- ***Stempien v. DeVry University***, Case No. RG19002623 (Cal. Sup. Ct. Alameda Cty. June 30, 2020) (certifying HammondLaw as class counsel for \$1,364,880 settlement Labor Code §§ 1194, 226, 226.2, 226.7, and 2802 claims on behalf of approximately 498 adjunct instructors);
- ***McCoy v. Concorde.***, Case No. 30-2017-00936359-CU-OE-CXC (Cal. Sup. Ct. Orange Cty. July 2, 2019) (certifying HammondLaw as class counsel for \$2,500,000 settlement of Labor Code §§ 1194, 226, 226.7, and 512 putative claims on behalf of approximately 636 adjunct instructors);
- ***Hogue v. YRC***, Case No. 5:16-cv-01338 (C.D. Cal. June 24, 2019) (certifying HammondLaw and A&T as co-class counsel for \$700,000 settlement of Labor Code §§ 1194, 226.2, 226.7, and 2802 claims on behalf of approximately 225 truck drivers);
- ***Sands v. Gold's Gym***, Case No. BC660124 (Cal. Sup. Ct. Los Angeles Cty. March 20, 2019) (Labor Code § 2698 *et seq.* representative action settlement for \$125,000 for violation of Labor Code § 1194, 2802 and 246 *et seq.* claims on behalf of 106 fitness instructors);
- ***Garcia v. CSU Fullerton.***, Case No. 30-2017-00912195-CU-OE-CXC (Cal. Sup. Ct. Orange Cty. February 15, 2019) (certifying HammondLaw as class counsel for \$330,000 settlement of Labor Code §§ 1194, 226, 226.7, and 512 claims on behalf of approximately 127 adjunct instructors);
- ***Pereltsvaig v. Stanford***, Case No. 17-CV-311521 (Cal. Sup. Ct. Santa Clara Cty. January 4, 2019) (certifying HammondLaw as class counsel for \$886,890 settlement of Labor Code §§ 1194, 226, 226.7, 512, 2802 and 2699 claims on behalf of approximately 398 adjunct instructors);
- ***Moss et al. v. USF Reddaway, Inc.***, Case No. 5:15-cv-01541 (C.D. Cal. July 25, 2018) (certifying HammondLaw and A&T as co-class counsel for \$2,950,000 settlement of Labor Code §§ 1194, 226, 226.7, and 201-203 claims on behalf of approximately 538 truck drivers);
- ***Beckman v. YMCA of Greater Long***, Case No. BC655840 (Cal. Sup. Ct. Los Angeles Cty. June 26, 2018) (Labor Code § 2698 *et seq.* representative action settlement for \$92,500 for violation of Labor Code § 1194 and 226(a) claims on behalf of approximately 101 fitness instructors);

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- ***Maldonado v. Heavy Weight Transport, Inc.***, Case No. 2:16-cv-08838 (C.D. Cal. December 11, 2017) (certifying HammondLaw and A&T as co-class counsel for \$340,000 settlement of Labor Code §§ 1194, 226, 226.2, 226.7, 226, 201-203, and 2699 claims on behalf of approximately 160 truck drivers);
- ***Hillman v. Kaplan***, Case No. 34-2017-00208078 (Cal. Sup. Ct. Sacramento Cty. December 7, 2017) (certifying HammondLaw as class counsel for \$1,500,000 settlement of Labor Code §§ 1194, 226, 226.7, 201-203 and 2802 claims on behalf of approximately 500 instructors);
- ***Bender et al. v. Mr. Copy, Inc.***, Case No. 30-2015-00824068-CU-OE-CXC (Cal. Sup. Ct. Orange Cty. October 13, 2017) (certifying HammondLaw and A&T as co-class counsel for \$695,000 settlement of Labor Code §2802 claims on behalf of approximately 250 outside sales representatives);
- ***Rios v. SoCal Office Technologies***, Case No. CIVDS1703071 (Cal. Sup. Ct. San Bernardino Cty. September 6, 2017) (certifying HammondLaw and A&T as co-class counsel for \$495,000 settlement of Labor Code §2802 claims on behalf of approximately 180 outside sales representatives);
- ***Russell v. Young's Commercial Transfer, Inc.***, Case No. PCU265656 (Cal. Sup. Ct. Tulare Cty. June 19, 2017) (certifying HammondLaw and A&T as co-class counsel for \$561,304 settlement of Labor Code §§ 1194, 226, 226.2, and 201-203 claims on behalf of approximately 962 truck drivers);
- ***Keyes v. Valley Farm Transport, Inc.***, Case No. FCS046361 (Cal. Sup. Ct. Solano Cty. May 23, 2017) (certifying HammondLaw and A&T as co-class counsel for \$497,000 settlement of Labor Code § 226, 1194, 512 and 2698 *et seq.* claims on behalf of approximately 316 truck drivers);
- ***Numi v. Interstate Distributor Co.***, Case No. RG15778541 (Cal. Sup. Ct. Alameda Cty. March 6, 2017) (certifying HammondLaw and A&T as co-class counsel for \$1,300,000 settlement of Labor Code §§ 1194, 226.2 and 2802 claims on behalf of approximately 1,000 truck drivers);
- ***Keyes v. Vitek, Inc.***, Case No. 2016-00189609 (Cal. Sup. Ct. Sacramento Cty. February 17, 2017) (\$102,000 settlement of PAGA representative action for violation of Labor Code § 226.8 on behalf of 90 truck drivers);
- ***Martinez v. Estes West dba G.I. Trucking, Inc.***, Case. BC587052 (Cal. Sup. Ct. L.A. Cty., April 4, 2017) (certifying HammondLaw and A&T as co-class counsel for \$425,000 settlement of Labor Code §§ 1194, 226, and 201-203 claims on behalf of approximately 156 truck drivers);
- ***Sansinena v. Gazelle Transport Inc.***, Case No. S1500-CV- No 283400 (Cal. Sup. Ct. Kern Cty. December 8, 2016) (certifying HammondLaw and A&T as co-class counsel for \$264,966 settlement of Labor Code §§ 1194, 226, and 201-203 claims on behalf of approximately 314 truck drivers);
- ***Cruz v. Blackbelt Enterprises, Inc.***, Case No. 39-2015-00327914-CU-OE-STK (Cal. Sup. Ct. San Joaquin Cty. September 22, 2016) (certifying HammondLaw and A&T as co-class counsel for \$250,000 settlement of Labor Code §§ 1194, 226, and 201-203 claims on behalf of approximately 79 truck drivers);

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- ***Araiza et al. v. The Scotts Company, L.L.C.***, Case No. BC570350 (Cal. Sup. Ct. L.A. Cty. September 19, 2016) (certifying HammondLaw and A&T as co-class counsel for \$925,000 settlement of Labor Code §226, 510, 512 and 2802 claims on behalf of approximately 570 merchandisers; and Labor Code 226(a) claims on behalf of approximately 120 other employees);
- ***Dixon v. Hearst Television, Inc.***, Case No. 15CV000127 (Cal. Sup. Ct. Monterey Cty. September 15, 2016) (certifying HammondLaw as class counsel for a \$432,000 settlement of Labor Code § 2802 claims on behalf of approximately 55 outside sales representatives);
- ***Garcia et al. v. Zoom Imaging Solutions, Inc.*** SCV0035770 (Cal. Sup. Ct. Placer Cty. September 8, 2016) (certifying HammondLaw and A&T as co-class counsel for \$750,000 settlement of Labor Code § 510, 512, 1194 and 2802 claims on behalf of approximately 160 sales representatives and service technicians);
- ***O'Beirne et al. v. Copier Source, Inc. dba Image Source***, Case No. 30-2015-00801066-CU-OE-CXC (Cal. Sup. Ct. Orange Cty. September 8, 2016) (certifying HammondLaw and A&T as co-class counsel for \$393,300 settlement of Labor Code §2802 claims on behalf of approximately 132 outside sales representatives);
- ***Mead v. Pan-Pacific Petroleum Company, Inc.***, Case No. BC555887 (Cal. Sup. Ct. L.A. Cty. August 30, 2016) (certifying HammondLaw and A&T as co-class counsel for \$450,000 settlement of Labor Code §§ 1194, 226, and 201-203 claims on behalf of approximately 172 truck drivers);
- ***Lange v. Ricoh Americas Corporation***, Case No. RG136812710 (Cal. Sup. Ct. Alameda Cty. August 5, 2016) (certifying HammondLaw as co-class counsel for \$1,887,060 settlement of Labor Code § 2802 claims on behalf of approximately 550 sales representatives);
- ***Alcazar v. US Foods, Inc. dba US Foodservice***, Case No. BC567664 (Cal. Sup. Ct. L.A. Cty. March 18, 2016) (certifying HammondLaw and A&T as co-class counsel for a \$475,000 settlement on behalf of approximately 634 truck drivers);
- ***Harris v. Toyota Logistics***, Case No. C 15-00217 (Cal. Sup. Ct. Contra Costa Cty. February 9, 2016) (certifying HammondLaw and A&T as co-class counsel for \$550,000 settlement reached on behalf of approximately truck 125 drivers);
- ***Albanez v. Premium Retail Services Inc.***, Case No. RG1577982 (Cal. Sup. Ct. Alameda Cty. January 29, 2016) (Private Attorney General Act Settlement for \$275,000 on behalf of approximately 38 employees);
- ***Garcia et al v. Sysco Los Angeles, et al.***, Case No. BC560274 (Cal. Sup. Ct. L.A. Cty. November 12, 2015) (certifying HammondLaw and A&T as co-class counsel for a \$325,000 settlement on behalf of approximately 500 truck drivers);
- ***Cooper et al. v. Savage Services Corporation, Inc.***, Case No. BC578990 (Cal. Sup. Ct. L.A. Cty. October 19, 2015) (certifying HammondLaw and A&T

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as co-class counsel for \$295,000 settlement on behalf of approximately 115 truck drivers);

- ***Gallardo et al. v. Canon Solutions America, Inc.***, Case No. CIVDSS1500375 (Cal. Sup. Ct. San Bernardino Cty. August 5, 2015) (certifying HammondLaw and A&T as co-class counsel for \$750,000 settlement on behalf for approximately 320 outside sales representatives);
- ***Glover v. 20/20 Companies, Inc.***, Case No. RG14748879 (Cal. Sup. Ct. Alameda Cty. August 3, 2015) (Private Attorney General Act Settlement for \$475,000 on behalf of approximately 273 independent contractors);
- ***Mayton et al v. Konica Minolta Business Solutions USA, Inc.***, Case No. RG12657116 (Cal. Sup. Ct. Alameda Cty. June 19, 2015) (certifying HammondLaw as co-class counsel for \$1,225,000 settlement on behalf for approximately 620 outside sales representatives);
- ***Garza, et al. v. Regal Wine Company, Inc. & Regal III, LLC***, Case No. RG12657199 (Cal. Sup. Ct. Alameda Cty. February 21, 2014) (certifying HammondLaw as class counsel for \$1.7 million settlement on behalf of approximately 317 employees);
- ***Moy, et al. v. Young's Market Co., Inc.***, Case No. 30-2011-00467109-CU-OE-CXC (Cal. Sup. Ct. Orange Cty. November 8, 2013) (certifying HammondLaw as co-class counsel for \$2.3 million settlement on behalf of approximately 575 sales representatives);
- ***Gagner v. Southern Wine & Spirits of America, Inc.***, Case No. 3:10-cv-10-04405 JSW (N.D. Cal. December 11, 2012) (certifying HammondLaw as co-class counsel for \$3.5 million settlement reached on behalf of approximately 870 sales representatives);
- ***Downs, et al. v. US Foods, Inc. dba US Foodservice***, Case No. 3:10-cv-02163 EMC (N.D. Cal. September 12, 2012) (certifying HammondLaw as co-class counsel for \$3 million settlement reached on behalf of approximately 950 truck drivers);

Settled California Consumer Cases

- ***Siciliano et al. v. Apple***, Case No. 1-13-cv-257676 (Cal. Sup. Ct. Santa Clara Cty. November 2, 2018) (approving \$16,500,000 settlement of Cal. Bus. Prof. Code §§ 17603, 17200, and 17535 claims on behalf of 3.9 million California subscribers to Apple InApp subscriptions);
- ***In re Ashley Madison Customer Data Security Breach Litigation***, Case No. 4:15-cv- 02669 JAR (E.D. Mis. November 20, 2017) (HammondLaw appointed to the executive committee in \$11.2 million settlement on behalf of 39 million subscribers to ashleymadison.com whose information was compromised in the Ashley Madison data breach);
- ***Gargir v. SeaWorld Inc.***, Case No. 37-2015-00008175-CU-MC-CTL (Cal. Sup. Ct. San Diego Cty. October 21, 2016) (certifying HammondLaw and Berman DeValerio as co-class counsel in \$500,000 settlement of Cal. Bus. Prof.

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Code §§ 17603, 17200, and 17535 claims class action on behalf of 88,000 subscribers to SeaWorld's annual park passes);

- ***Davis v. Birchbox, Inc.***, Case No. 3:15-cv-00498-BEN-BGS (S.D. Cal. October 14, 2016) (certifying HammondLaw and Berman DeValerio as co-class counsel in \$1,572,000 settlement of Cal. Bus. Prof. Code §§ 17603, 17200, and 17535 claims on behalf of 149,000 subscribers to Birchbox's memberships);
- ***Goldman v. LifeLock, Inc.*** Case No. 1-15-cv-276235 (Cal. Sup. Ct. Santa Clara Cty. February 5, 2016) (certifying HammondLaw and Berman DeValerio as co-class counsel in \$2,500,000 settlement of Cal. Bus. Prof. Code §§ 17603, 17200, and 17535 claims on behalf of 300,000 California subscribers to Lifelock's identity protection programs); and
- ***Kruger v. Kiwi Crate, Inc.*** Case No. 1-13-cv-254550 (Cal. Sup. Ct. Santa Clara Cty. July 2, 2015) (certifying HammondLaw as class counsel in \$108,000 settlement of Cal. Bus. Prof. Code §§ 17603, 17200, and 17535 claims on behalf of 5,400 California subscribers to Kiwi Crate's subscriptions).