

1 R. Craig Clark (SBN 129219)
 cclark@clarklawyers.com
 2 Monique R. Rodriguez (SBN 304223)
 mrodriguez@clarklawyers.com
 3 **CLARK LAW GROUP**
 205 West Date Street
 4 San Diego, CA 92101
 Telephone: (619) 239-1321
 5 Facsimile: (888) 273-4554
Attorneys for Plaintiff Augusto De Leon
 6 [Additional counsel listed on following page]

7 John R. Giovannone (SBN 239366)
 jgiovannone@cdflaborlaw.com
 8 Candace DesBaillets (SBN 315284)
 cdesbaillets@cdflaborlaw.com
 9 **CAROTHERS DiSANTE & FREUDENBERGER LLP**
 707 Wilshire Boulevard, Suite 5150
 10 Los Angeles, CA 90017
 Telephone: (213) 612-6300
 11 Facsimile: (213) 612-6301
Attorneys for Defendants

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

15 AUGUSTO DE LEON, as an individual,
 16 on behalf of himself, and all other
 persons similarly situated,

17 Plaintiff,

18 v.

19 RICOH USA, INC., an Ohio
 20 corporation authorized to do business in
 the state of California; IKON OFFICE
 21 SOLUTIONS, INC., also known as
 Ricoh USA, Inc., an Ohio corporation
 22 authorized to do business in the state of
 California; RICOH AMERICAS
 23 CORPORATION, a Delaware
 corporation previously authorized to do
 24 business in the state of California and
 succeeded by Ricoh USA, Inc.; and
 25 DOES 1 to 10 inclusive,

26 Defendants.
 27
 28

CASE NO.: 3:18-cv-03725-JSC

[Assigned to Hon. Jacqueline Scott Corley,
 Courtroom F]

CLASS & REPRESENTATIVE ACTION

**JOINT STIPULATION AND
 AGREEMENT FOR CLASS ACTION
 SETTLEMENT AND RELEASE OF
 CLAIMS**

Initial Complaint filed: May 22, 2018
 Action removed: June 22, 2018
 First Amended Complaint: October 12, 2018
 Operative Amended Complaint: July 12, 2019

1 **Additional Counsel:**

2 Walter Haines (SBN 071075)
3 **UNITED EMPLOYEES LAW GROUP**
4 5500 Bolsa Avenue, Suite 201
5 Huntington Beach, CA 92649
6 Telephone: (562) 256-1047
7 Facsimile: (562) 256-1006
8 *Attorney for Plaintiff Augusto De Leon*

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **JOINT STIPULATION AND AGREEMENT FOR CLASS ACTION**
2 **SETTLEMENT AND RELEASE OF CLAIMS**

3 This Joint Stipulation and Agreement for Class Action Settlement and Release of
4 Claims (“Agreement”) is entered into between Plaintiff Augusto De Leon (“Plaintiff”)
5 and Defendants Ricoh USA, Inc., IKON Office Solutions, Inc., and Ricoh Americas
6 Corporation (“Defendants”) (collectively the “Parties”). The Parties have agreed to the
7 terms of the Agreement stated herein. Once approved by the Court, the below stated
8 terms of the Agreement shall be binding on the Parties and the participating members of
9 the Settlement Class (as defined in paragraph 48) and the participating members of the
10 FLSA Collective (as defined in paragraph 49) that Plaintiff represents.

11 **I. RECITALS**

12 This Agreement is made with reference to the following recital of essential facts:

13 1. On or about March 7, 2018, Plaintiff submitted written notice of
14 Defendants’ alleged California Labor Code (“Labor Code”) violations pursuant to the
15 Private Attorneys General Act of 2004 (codified in Labor Code §§ 2698 *et seq.*,
16 “PAGA”) to Defendants and the California Labor and Workforce Development Agency
17 (“LWDA”).

18 2. On or about May 22, 2018, Plaintiff filed a class and representative action
19 in the Sonoma County Superior Court against Ricoh USA, Inc., an Ohio corporation
20 authorized to do business in the state of California; IKON Office Solutions, Inc., also
21 known as Ricoh USA, Inc., an Ohio corporation authorized to do business in the state of
22 California; Ricoh Americas Corporation, a Delaware corporation previously authorized
23 to do business in the state of California and succeeded by Ricoh USA, Inc.; and Does 1
24 to 10, inclusive (the “Action”).

25 3. On or about June 22, 2018, Defendants removed the Action from the
26 Sonoma County Superior Court to the United States District Court for the Northern
27 District of California.

1 4. The first amended complaint, filed by Plaintiff on or about October 12,
2 2018, alleges the following causes of action: (1) failure to pay minimum wages and
3 overtime compensation (Labor Code §§ 204, 210, 510, 1194, 1197, 1197.1 and 1198);
4 (2) failure to provide legally compliant meal periods or compensation in lieu thereof
5 (Labor Code §§ 226.7 and 512); (3) failure to provide legally compliant rest periods or
6 compensation in lieu thereof (Labor Code § 226.7); (4) failure to reimburse for
7 necessary work expenses (Labor Code §§ 2800 and 2802); (5) failure to pay wages
8 owed (Labor Code §§ 201, 202, 203); (6) failure to furnish accurate itemized wage
9 statements (Labor Code §§ 226 and 226.3); (7) failure to maintain accurate records
10 (Labor Code §§ 226(a) and 1174); (8) unfair business practices (California Business &
11 Professions Code §§ 17200 *et seq.*) and (9) civil penalties pursuant to Labor Code §§
12 2698 *et seq.*

13 5. On or about October 12, 2018, Hector Lopez submitted notice of Ricoh
14 USA, Inc.'s alleged Labor Code violations to the LWDA and Defendant Ricoh USA,
15 Inc. Thereafter, on or about December 17, 2018, Hector Lopez filed a representative
16 action pursuant to PAGA in the Los Angeles County Superior Court (Case No.
17 18STCV08926) against Defendant Ricoh USA, Inc. alleging that Defendant Ricoh
18 USA, Inc. violated the Labor Code by (1) failing to pay straight, regular pay rate wages
19 for all work performed (Labor Code §§ 2698, *et seq.*); (2) failing to pay all overtime
20 wages (Labor Code § 510); failing to provide meal periods (Labor Code §§ 2698, *et*
21 *seq.*); (3) failing to provide rest periods (Labor Code §§ 2698, *et seq.*); (4) failing to pay
22 wages due at termination and during employment (Labor Code §§ 2698, *et seq.*); (5)
23 knowingly and intentionally failing to comply with itemized employee wage statements
24 (Labor Code §§ 2698, *et seq.*); (6) failing to pay employees twice per month (Labor
25 Code §§ 2698, *et seq.*); (7) failing to provide paid sick days (Labor Code §§ 246, 2698,
26
27
28

1 *et. seq.*); and (8) failing to reimburse expenses in discharging duties (Labor Code §§
2 2698, *et. seq.*) (“*Lopez*”).¹

3 6. Class Counsel (as defined in paragraph 18) has conducted a thorough
4 investigation into the facts of the Action, including but not limited to propounding
5 formal discovery and analyzing extensive data and information which was informally
6 exchanged in anticipation of mediation.

7 7. On March 19, 2019, the Parties attended a full day of private mediation of
8 the above-captioned *De Leon* action and the *Lopez* action with Lisa Klerman, a well-
9 respected and experienced mediator. At such mediation, the Parties reached a settlement
10 in principle which is intended to fully and finally resolve all claims as to Plaintiff and all
11 others similarly situated.

12 8. Pursuant to that settlement in principle and subsequent joint stipulation by
13 the Parties (and the Court’s corresponding order granting permission), Plaintiff filed a
14 Second Amended Complaint on July 12, 2019 supplementing the claims in the first
15 amended complaint with additional claims for unpaid wages under the Fair Labor
16 Standards Act of 1938, as amended, 29 U.S.C. § 201 *et seq.* and for paid sick days (per
17 Labor Code §§ 246 *et seq.* as originally addressed in the *Lopez* action).

18 9. At all times, the Parties’ settlement negotiations have been non-collusive,
19 adversarial, and at conducted at arm’s length. This Agreement represents a compromise
20 and settlement of highly disputed claims and defenses, as Plaintiff believes his asserted
21 claims have merit and Defendants believe the defenses they asserted to such claims to
22 have merit. Nothing in this Agreement shall be construed as an admission by
23 Defendants or any of the Released Parties (as defined in paragraph 54) that the asserted
24

25 _____
26 ¹ The parties to this Action (as defined in paragraph 50) and the parties to the *Lopez*
27 Action (as defined in paragraph 44) have agreed to work cooperatively. The *Lopez*
28 Action will essentially be subsumed into this Action. As outlined in paragraph 82, the
Lopez Action will be dismissed pursuant to the agreement of the parties to the *Lopez*
action.

1 claims have merit or as an admission by Plaintiff that the defenses asserted by
2 Defendant have merit.

3 10. Plaintiff and Class Counsel believe the total consideration and payment set
4 forth in this Agreement is fair, reasonable and adequate in light of the uncertainties
5 inherent in litigation, especially in complex actions such as this Action, and the possible
6 defenses that Defendants have asserted and/or could assert. Class Counsel recognizes
7 that there is a substantial monetary benefit to the Settlement Class (as defined in
8 paragraph 58) and also recognizes the expense, time and uncertainty associated with
9 continued litigation and proceedings necessary to prosecute the Action through trial and
10 possible appeals. Class Counsel has also considered the risk and difficulty of achieving
11 and maintaining class action status through trial and possible appeals. Therefore, Class
12 Counsel has determined that the settlement set forth in this Agreement is in the best
13 interest of the Class and is fair, adequate and reasonable.

14 11. Defendants and their counsel similarly believe that it is desirable and
15 beneficial to Defendants that the Action be settled in a manner and upon such terms and
16 conditions as set forth herein so as to avoid the risk and expense of further litigation and
17 the inconvenience and distraction of further legal proceedings. As such, Defendants
18 have concluded that their interest is best served by entering into this Agreement.

19 12. Due to the class and representative nature of the Action, this Agreement
20 must receive preliminary and final approval by the Court with the necessary notice
21 provided to the LWDA. Accordingly, this Agreement is entered into by the Parties on a
22 conditional basis.²

23
24
25
26 ² Paragraphs 67, 72, and 77 explain the validity of this Agreement and the effect on the
27 Parties in the event the Court declines to approve all material aspects of the Agreement,
28 or any reviewing court makes a ruling which substantially modifies the material terms
of the Agreement.

1 13. This Agreement shall replace and supersede any and all prior
2 memorandums of understanding and similar and/or related documents that may have
3 been executed and/or agreed to by the Parties.

4 **II. DEFINITIONS**

5 As used herein, including the attached, the following terms are defined as:

6 14. “ACTION” shall mean the lawsuit currently titled *Augusto De Leon, as an*
7 *individual, on behalf of himself, and all other persons similarly situated vs. Ricoh USA,*
8 *Inc., an Ohio corporation authorized to do business in the state of California; IKON*
9 *Office Solutions, Inc., also known as Ricoh USA, Inc., an Ohio corporation authorized*
10 *to do business in the state of California; Ricoh Americas Corporation, a Delaware*
11 *corporation previously authorized to do business in the state of California and*
12 *succeeded by Ricoh USA, Inc.; and Does 1 to 10, inclusive, currently pending before the*
13 *United States District Court for the Northern District of California, San Francisco*
14 *Division, case number 3:18-cv-03725-JSC, honorable Jacqueline Scott Corley*
15 *presiding.*

16 15. “AGREEMENT,” “SETTLEMENT AGREEMENT,” and
17 “STIPULATION” shall mean this Joint Stipulation and Agreement for Class Action
18 Settlement and Release of Claims.

19 16. “CLAIMS ADMINISTRATOR” shall mean CPT Group, Inc. (“CPT”), or
20 any other third-party settlement administrator agreed to by the Parties and approved by
21 the Court for the purposes of administering this Settlement.

22 17. “CLAIMS ADMINISTRATION COSTS” shall mean all reasonable fees
23 and actual expenses incurred by the Claims Administrator in administering the
24 Settlement.

25 18. “CLASS COUNSEL” shall mean Clark Law Group and all of its attorneys,
26 specifically including but not limited to R. Craig Clark and Monique R. Rodriguez; and
27 United Employees Law Group and all of its attorneys including but not limited to
28 Walter Haines.

1 19. “CLASS COUNSEL FEES AWARD” shall mean the attorneys’ fees for
2 Class Counsel for their litigation and resolution of the Action.

3 20. “CLASS COUNSEL COSTS AWARD” shall mean Class Counsel’s actual
4 litigation expenses and costs incurred in connection with this Action including but not
5 limited to Class Counsel’s pre-filing investigation, their filing of the Action and all
6 other related litigation activities, this Settlement, and all post-Settlement compliance
7 procedures.

8 21. “CLASS LIST” shall mean the list of Class Members that Defendant will
9 diligently and in good faith compile from its records. The Class List will include all
10 information set forth in paragraph 68(a) for each Class Member.

11 22. “CLASS MEMBERS” and “SETTLEMENT CLASS MEMBERS” shall
12 mean the individual members of the Settlement Class.

13 23. “CLASS MEMBER SHARE” shall mean the amount payable to each
14 Participating Class Member under the terms of this Agreement based on the number of
15 Workweeks a Participating Class Member worked during the Class Period. The specific
16 computation is outlined in paragraph 63(a).

17 24. “CLASS NOTICE” and “NOTICE” shall mean the mutually agreed upon
18 Notice of Class Action Settlement and Release of Claims, substantially similar to the
19 form attached hereto as Exhibit A.

20 25. “CLASS PERIOD” shall mean the period of time from May 22, 2014
21 through the Preliminary Approval Date.

22 26. “CLASS WORKWEEK VALUE” shall mean the monetary value assigned
23 to each individual Workweek worked by Settlement Class Members during the Class
24 Period for the purpose of calculating individual Class Member Shares.

25 27. “COLLECTIVE-ELIGIBLE CLASS MEMBERS” shall mean the
26 individual Class Members who are eligible to opt-in to the FLSA Collective based on
27 their dates of employment with Defendants, as described in paragraph 37. Class
28 Members are eligible to opt-in to the FLSA Collective if they worked for Defendants at

1 any time on or after May 22, 2015 through the Preliminary Approval Date (the “FLSA
2 Period”). Since the Class Period begins one year earlier, on May 22, 2014, a Class
3 Member who separated from Ricoh within the period of time from May 22, 2014
4 through May 21, 2015 and/or did not perform any work Defendants after May 21, 2015
5 is not a Collective-Eligible Class Member.

6 28. “COUNSEL FOR DEFENDANTS” and “DEFENDANTS’ COUNSEL”
7 shall mean Carothers DiSante & Freudenberger LLP and all of its attorneys, specifically
8 including but not limited to John R. Giovannone and Candace DesBaillets.

9 29. “COURT” shall mean Courtroom F of United States District Court for the
10 Northern District of California, San Francisco Division, honorable Jacqueline Scott
11 Corley presiding.

12 30. “DEFENDANTS” shall mean Defendants Ricoh USA, Inc., IKON Office
13 Solutions, Inc. and Ricoh Americas Corporation.

14 31. “EFFECTIVE DATE” shall mean the following:

15 a. If no objections to the Settlement were filed and no objections to the
16 Settlement were made at the Final Approval Hearing, or if there were objections filed
17 but such were withdrawn before the Final Approval Hearing, then the date the Court
18 enters an order granting final approval;

19 b. If an objection to the Settlement was filed and/or made at the Final
20 Approval Hearing, then the date on which time expires to file an appeal of the Court’s
21 granting of final approval; or

22 c. If an objection to the Settlement was filed and/or made at the Final
23 Approval Hearing and a Notice of Appeal of the Court’s granting of final approval was
24 timely filed by the objector, then the date the appeal is finally resolved, with the final
25 approval unaffected.

26 32. “EMPLOYER TAXES” shall mean the employer-funded taxes and
27 contributions imposed on the wage portions of the funds pursuant to the Federal
28

1 Insurance Contributions Act, the Federal Unemployment Tax Act and any other
2 applicable federal or state law that requires employers to pay taxes on wages.

3 33. "FINAL APPROVAL HEARING" shall mean the court hearing to
4 determine final approval and implementation of the terms of this Agreement.

5 34. "FLSA CLAIM" shall mean the claim for unpaid wages, including
6 overtime wages, under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §
7 201 *et seq.* (the "FLSA").

8 35. "FLSA CLAIM CHECK" shall mean the check mailed to Collective-
9 Eligible Class Members in the amount of their respective FLSA Settlement Share and
10 includes the FLSA Claim Check Language.

11 36. "FLSA CLAIM CHECK LANGUAGE" shall mean the mutually agreed
12 upon language written on the back of the check representing each Collective Eligible
13 Class Member's FLSA Settlement Share advising the Collective-Eligible Class Member
14 that by endorsing and/or cashing the FLSA Settlement Share check the individual will
15 be opting into the FLSA Collective, will become a Participating Collective Member,
16 and will release all FLSA Claims pursuant to this Agreement. Such language will be
17 substantially similar to the form attached hereto as Exhibit B.

18 37. "FLSA COLLECTIVE" shall mean:

19 All current or former hourly non-exempt employees of
20 Defendants who held the position of technology service
21 technician, field support representative, and/or other positions
22 engaged in similar work for Defendants in the state of
California during the period of May 22, 2015 through the
Preliminary Approval Date.

23 The FLSA Collective is an opt-in collective meaning that only Participating Collective
24 Members will receive a share of the FLSA Settlement Amount and be bound by the
25 settlement of the FLSA Claim.

26 38. "FLSA PERIOD" shall mean the period of time from May 22, 2015
27 through the Preliminary Approval Date.

1 39. "FLSA SETTLEMENT AMOUNT" shall mean the fifty-five thousand
2 dollars and zero cents (\$55,000.00) allocated from the Gross Settlement Amount as
3 consideration for release of the FLSA Claim by Participating Collective Members.

4 40. "FLSA SETTLEMENT SHARE" shall mean the amount payable to each
5 Participating Collective Member under the terms of this Settlement Agreement based on
6 the number of Workweeks a Participating Collective Member worked during the FLSA
7 Period. The specific computation is outlined in paragraph 63(b).

8 41. "FLSA WORKWEEK VALUE" shall mean the monetary value assigned
9 to each individual Workweek of the aggregate total of Workweeks worked in excess of
10 ten (10) per Collective-Eligible Class Member during the FLSA Period for the purpose
11 of calculating individual FLSA Settlement Shares.

12 42. "GROSS SETTLEMENT AMOUNT" shall mean the non-reversionary
13 amount of two million two hundred thousand dollars and zero cents (\$2,200,000.00) that
14 Defendants are obligated to pay under this Agreement.

15 43. "JUDGMENT" shall refer to the judgment entered in accordance with the
16 Court's order granting final approval of the Settlement.

17 44. "LOPEZ ACTION" shall mean the lawsuit currently titled *Hector Lopez,*
18 *on behalf of himself and all others similarly situated, and on behalf of the general*
19 *public v. Ricoh USA, Inc.; and Does 1-100*, currently pending before the Superior Court
20 of the State of California, in and for the County of Los Angeles, case number
21 18STCV08926, honorable Holly J. Fujie presiding.

22 45. "LWDA PAYMENT" shall mean the payment of seventy-five thousand
23 dollars and zero cents (\$75,000.00) to the California Labor and Workforce Development
24 Agency for its portion of the civil penalties paid under the Private Attorneys General
25 Act of 2004.

26 46. "NET SETTLEMENT AMOUNT" shall mean the portion of the Gross
27 Settlement Amount distributable to Participating Class Members after the deduction of
28 (i) the FLSA Settlement Amount; (ii) the LWDA Payment; (iii) the court-approved

1 Service Award; (iii) the court-approved Class Counsel Fees Award; (iv) the court-
2 approved Class Counsel Costs Award; and (iv) the court-approved Claims
3 Administration Costs.

4 47. "NOTICE PACKET" shall mean the materials mailed to Class Members to
5 notify them of the Settlement Agreement and their rights thereunder. For Class
6 Members who are not eligible to opt-in to the FLSA Collective, the Notice Packet will
7 be comprised of only the Class Notice. For Class Members who are eligible to opt-in to
8 the FLSA Collective, the Notice Packet will also include the FLSA Claim Check
9 Language advising the Collective-Eligible Class Member that if s/he does not opt out,
10 s/he will get a second check with the language advising them that if FLSA Claim Check
11 is endorsed and/or cashed, s/he will have agreed to opt into the FLSA Collective, will
12 become a Participating Collective Member, and will release all FLSA Claims pursuant
13 to this Agreement.

14 48. "PARTICIPATING CLASS MEMBER" shall mean any Class Member
15 who does not submit a timely and valid Request for Exclusion as described in paragraph
16 69.

17 49. "PARTICIPATING COLLECTIVE MEMBER" shall mean any
18 Collective-Eligible Class Member who endorses and/or cashes the FLSA Claim Check
19 that includes the FLSA Claim Check Language as described in paragraph 36.

20 50. "PARTIES" shall collectively refer to Plaintiff Augusto De Leon and
21 Defendants Ricoh USA, Inc., IKON Office Solutions, Inc. and Ricoh Americas
22 Corporation.

23 51. "PLAINTIFF" shall mean Plaintiff Augusto De Leon, as he is the named
24 Plaintiff in the Action.

25 52. "PRELIMINARY APPROVAL DATE" shall mean the date the court
26 enters an order granting preliminary approval of the Settlement Agreement.

27 53. "RELEASED CLAIMS" shall mean any and all known and unknown wage
28 claims under California law that arise out of the facts pled in the Action, including but

1 not limited to any and all claims for failure to pay minimum wages, straight time, and
2 overtime compensation; failure to provide legally compliant meal periods or
3 compensation in lieu thereof; failure to provide legally compliant rest breaks or
4 compensation in lieu thereof; failure to reimburse for necessary work expenses; failure
5 to furnish accurate itemized wage statements; failure to maintain accurate records;
6 failure to provide paid sick leave; including any and all claims brought under California
7 Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 246, 248.5, 510, 512, 558,
8 1174, 1194, 1197.1, 1198, 2800, 2802 and 2698 *et seq.*, California Business &
9 Professions Code §§ 17200 *et seq.*, and the relevant Industrial Welfare Commission
10 Wage Orders from May 22, 2014 through the Preliminary Approval Date.

11 54. “RELEASED PARTIES” shall mean Defendants and all of their former,
12 present or future affiliated entities and third parties, including but not limited to parents,
13 subsidiaries, partners, owners, shareholders, officers, directors, employees, agents, and
14 subcontractors.

15 55. “RESPONSE DEADLINE” shall mean the last day of the Response Period.

16 56. “RESPONSE PERIOD” shall mean the forty-five (45) day period
17 following the date the Claims Administrator mails the Notice Packet to Class Members
18 during which Class Members may challenge work week calculations, request exclusion
19 from the Settlement Class, or submit a written objection to the Settlement Agreement, as
20 outlined in paragraphs 63(c), 69 and 70.

21 57. “SERVICE AWARD” shall mean the Court-approved service award made
22 to Plaintiff Augusto De Leon in exchange for his general release of claims and to
23 compensate him for initiating the Action, performing work in support of the Action, and
24 undertaking the risk of liability for attorneys’ fees and costs in the event he was
25 unsuccessful.

26 58. “SETTLEMENT CLASS” shall mean:

27 All current or former hourly non-exempt employees of
28 Defendants who held the position of technology service
technician, field support representative, and/or other positions

1 engaged in similar work for Defendants in the state of
2 California during the period of May 22, 2014 through the
Preliminary Approval Date.

3 59. "UNCLAIMED FUNDS" shall refer to the aggregate total of the Net
4 Settlement Amount that remains unclaimed as a result of un-cashed checks, or
5 otherwise, after the 180-day period for Participating Class Members to cash their Class
6 Member Share has expired and the FLSA Settlement Amount that remains unclaimed as
7 a result of un-cashed checks, or otherwise, after the 180-day period for Participating
8 Collective Members to cash their FLSA Settlement Share has expired.

9 60. "WORKWEEK" shall mean any regular workweek in which a Class
10 Member or Collective-Eligible Class Member received payment from Defendants for
11 work performed on Defendants' behalf, provided every member of the Settlement Class
12 and FLSA Collective shall be deemed to have worked at least one Workweek.

13 **III. TERMS OF AGREEMENT**

14 Plaintiff, on behalf of himself and the Settlement Class, and Defendants agree as
15 follows:

16 61. **Gross Settlement Amount.** Subject to the terms and conditions set forth
17 herein, the non-reversionary Gross Settlement Amount that Defendants are obligated to
18 pay under this Agreement is two million two hundred thousand dollars and zero cents
19 (\$2,200,000.00). Under no circumstances will any portion of the Gross Settlement
20 Amount revert to Defendants. The Gross Settlement Amount neither includes nor covers
21 Defendants' attorneys' fees, Defendants' litigation costs, and Employer Taxes.

22 62. **Settlement Payments.** Subject to the terms and conditions of this
23 Agreement, the Claims Administrator will make payments as follows:

24 a. **To Participating Class Members.** Subject to the terms and
25 conditions of this Agreement, individual Class Member Shares shall be paid out of the
26 Net Settlement Amount to Participating Class Members in accordance with paragraph
27 63(a).
28

1 **b. To Participating Collective Members.** The Claims Administrator
2 will allocate fifty-five thousand dollars and zero cents (\$55,000.00) of the Gross
3 Settlement Amount as consideration for the release of the FLSA Claim by Participating
4 Collective Members. Subject to the terms and conditions of this Agreement,
5 Participating Collective Members shall be paid their individual FLSA Settlement Shares
6 out of the FLSA Settlement Amount in accordance with paragraph 63(b).

7 **c. To Augusto De Leon.** In addition to his individual Class Member
8 Share and FLSA Settlement Share, Plaintiff Augusto De Leon will receive a Service
9 Award, subject to Court approval. Defendants have agreed not oppose the application
10 for such Service Award in an amount up to and including ten thousand dollars
11 (\$10,000). If the Court does not award the entirety of the amount requested for the
12 Service Award, the Claims Administrator shall pay to Plaintiff Augusto De Leon the
13 amount actually awarded by the Court out of the Gross Settlement Amount. If the
14 amount awarded by the Court is less than the amount requested, the difference shall be
15 included in the Net Settlement Amount. Payroll tax withholding and deductions will not
16 be taken from the Service Award. An IRS Form 1099 will be issued by the Claims
17 Administrator to Plaintiff with respect to the Service Award. Plaintiff will be solely
18 responsible for paying any and all applicable taxes on the payments made pursuant to
19 this paragraph.

20 **d. To Class Counsel.** Class Counsel will apply to the Court for a Class
21 Counsel Fee Award in the amount of seven hundred thirty-three thousand, three hundred
22 and thirty-three dollars and thirty-three cents (\$733,333.33) (one-third of the Gross
23 Settlement Amount), and a Class Counsel Costs Award in an amount of no more than
24 fifteen thousand dollars and zero cents (\$15,000.00). Defendants have agreed that they
25 will not impose or impede Class Counsel's application for such awards. In the event the
26 Court does not award the entirety of the amounts requested, the Claims Administrator
27 shall pay to Class Counsel the amounts actually awarded by the Court out of the Gross
28 Settlement Amount. If the amounts awarded by the Court are less than the amounts

1 requested by Class Counsel, the difference shall be included in the Net Settlement
2 Amount. In such event, Class Counsel retains the right to appeal the Court's order of the
3 lesser amounts. Payroll tax withholding and deductions will not be taken from the Class
4 Counsel Fee Award or the Class Counsel Costs Award. With respect to these payments,
5 the Claims Administrator will issue to Class Counsel an IRS Form 1099.

6 e. **To the Claims Administrator.** From the Gross Settlement Amount,
7 the Claims Administrator will pay to itself the Court-approved Claims Administration
8 Costs in an amount not to exceed thirty thousand dollars and zero cents (\$30,000.00).

9 f. **To the LWDA.** The Claims Administrator will allocate one hundred
10 thousand dollars and zero cents (\$100,000.00) for PAGA civil penalties. In accordance
11 with the statute, the Claims Administrator will pay to the LWDA seventy-five thousand
12 dollars and zero cents (\$75,000.00) (75% of the PAGA allocation) out of the Gross
13 Settlement Amount ("LWDA Payment"), and the remaining twenty-five thousand
14 dollars and zero cents (\$25,000.00) shall be allocated to the Net Settlement Amount.

15 63. **Individual Settlement Shares.** The Parties agree that the formulas for
16 allocating individual Class Member Shares and FLSA Settlement Shares set forth herein
17 are reasonable and the payments provided for are designed to promote a fair settlement,
18 despite any uncertainties regarding the amounts that Participating Class Members and
19 Participating Collective Members could be owed and/or the calculations thereof.

20 a. **Class Member Shares.** The entire Net Settlement Amount shall be
21 distributed *pro rata* to Participating Class Members based upon the total number of
22 Workweeks that each Participating Class Member worked during the Class Period.
23 Specific calculations pertaining to Class Member Shares will be made as follows:

24 i. **By Defendant.** Defendant will, in good faith, determine and
25 provide to the Claims Administrator within fourteen (14) days
26 after entry of an order granting preliminary approval of the
27 Settlement (the "Preliminary Approval Date") the total
28

1 number of Workweeks that each individual Class Member
2 worked during the Class Period.

3 ii. **By the Claims Administrator.** The Claims Administrator
4 will calculate the aggregate total number of Workweeks
5 worked by the Settlement Class during the Class Period based
6 on Defendants' calculations set forth in paragraph 63(a)(i).
7 Class Workweek Value will be determined by dividing the Net
8 Settlement Amount by the aggregate total of Workweeks
9 worked. The Claims Administrator will calculate Class
10 Members' estimated Class Member Share by multiplying the
11 individual Class Member's total Workweeks by Workweek
12 Value. If any Class Members sufficiently opt-out of the
13 Settlement, the Claims Administrator shall redistribute the
14 amount of their estimated shares of the Net Settlement
15 Amount *pro rata* to all Participating Class Members, so that
16 the entire Net Settlement Amount is distributed to
17 Participating Class Members.

18 b. **FLSA Settlement Shares.** The entire FLSA Settlement Amount
19 shall be distributed to all Collective-Eligible Class Members. Each Collective-Eligible
20 Class Member who endorses and/or cashes their respective FLSA Claim Check that
21 includes the FLSA Claim Check Language will become Participating Collective
22 Members as by endorsing and/or cashing their FLSA Claim Check they have opted into
23 the FLSA Collective. Collective-Eligible Members who worked no more than ten (10)
24 Workweeks during the FLSA Period shall receive an FLSA Settlement Share equal to
25 twenty dollars and zero cents (\$20.00). Participating Collective Members who worked
26 more than ten (10) Workweeks during the FLSA Period shall receive an FLSA
27 Settlement Share of twenty dollars and zero cents (\$20.00) plus an additional amount
28 from the remainder of the FLSA Settlement Amount after twenty dollars and zero cents

1 (\$20.00) is allocated to each Participating Collective Member. Such remainder of the
2 FLSA Settlement Amount is to be distributed *pro rata* to Participating Collective
3 Members who worked more than ten (10) Workweeks during the FLSA Period based on
4 the number of Workweeks the Participating Collective Member worked in excess of ten
5 (10). Specific calculations pertaining to FLSA Settlement Shares will be made as
6 follows:

7 i. **By Defendant.** Defendant will, in good faith, determine and
8 provide to the Claims Administrator within fourteen (14) of
9 the Preliminary Approval Date the total number of Collective-
10 Eligible Class Members and the total number of Workweeks
11 that each individual Collective-Eligible Class Member worked
12 during the FLSA Period.

13 ii. **By the Claims Administrator.** Based on Defendant's
14 calculations set forth in paragraph 63(b)(i), the Claims
15 Administrator will determine the remainder of the FLSA
16 Settlement Amount after allocating twenty dollars and zero
17 cents (\$20.00) to each Collective-Eligible Class Member. The
18 Claims Administrator will also calculate the aggregate total
19 number of Workweeks worked in excess of ten (10) per
20 Collective-Eligible Class Member during the FLSA Period.
21 FLSA Workweek Value will be determined by dividing the
22 remainder of the FLSA Settlement amount by the aggregate
23 total of Workweeks worked in excess of ten (10) per
24 Collective-Eligible Class Member. The Claims Administrator
25 will calculate the estimated shares for Collective-Eligible
26 Class Members who worked more than ten (10) Workweeks
27 by multiplying the individual employee's number of
28 Workweeks worked in excess of ten (10) weeks by FLSA

1 Workweek Value and adding twenty dollars and zero cents
2 (\$20.00) to the sum thereof. Uncashed FLSA Claim Checks
3 will be handled in accordance with paragraph 74.

4 c. **Challenges to Workweek Calculations.** If a Class Member and/or
5 Collective-Eligible Class Member disputes the calculation of Workweeks worked
6 thereby during the Class Period and/or FLSA Period, as shown on the Class Notice, the
7 individual must provide to the Claims Administrator the number of total Workweeks the
8 individual claims to have worked during the Class Period and/or FLSA Period and
9 supporting documentation no later than forty-five (45) days after the Claims
10 Administrator first mails the Class Notice. Defendants' records regarding the number of
11 Workweeks worked by the Class Member and/or Collective-Eligible Class Member
12 shall be presumed to be correct and the individual will bear the burden of proof (i.e. an
13 individual who fails to provide proof will have his or her challenge denied). The Claims
14 Administrator shall investigate the challenge, requesting information from Defendants
15 as necessary, and will have the final authority to resolve any and all disputes concerning
16 the calculation of a Participating Class Member's Class Member Share and/or
17 Participating Collective Member's FLSA Settlement Share.

18 d. **IRS Reporting.** With respect to Class Member Shares, twenty-five
19 percent (25%) of each Participating Class Member's individual settlement share shall
20 constitute wages for the purposes of IRS reporting, while the other seventy-five percent
21 (75%) shall constitute payments for liquidated damages, penalties, and interest.
22 Concerning FLSA Settlement Shares, one hundred percent (100%) of each Participating
23 Collective Member's individual settlement share shall constitute payments for
24 liquidated damages, penalties, and interest. For the wage payments, the Claims
25 Administrator shall issue an IRS Form W-2; for all other payments, the Claims
26 Administrator shall issue an IRS form 1099.

27 e. **No Credit to Benefit Plan.** The payments made to Participating
28 Class Members and Participating Collective Members pursuant to this Agreement shall

1 not have any effect on the eligibility or calculation of any employee benefits provided
2 by Defendants.

3 **64. Certification for Settlement Purposes Only.** The Parties agree and
4 hereby stipulate, for settlement purposes only, to certification of the Settlement Class
5 pursuant to Rule 23 of the Federal Rules of Civil Procedure, and to certification of the
6 FLSA Collective under 29 U.S.C. § 216(b). If the Court does not grant preliminary and
7 final approval of the Settlement, certification of the Settlement Class and FLSA
8 Collective will be deemed not to have been granted and any prior stipulation to
9 certification thereof will have no effect.

10 **65. Tax Treatment.** The Class Representative and Participating Class
11 Members and/or Participating Collective Members shall be exclusively liable for any
12 and all of their respective tax liability, if any, and should consult with their tax advisors
13 concerning the tax consequences of the payments they receive under the Settlement
14 Agreement. The payments received by Participating Class Members and/or Participating
15 Collective Members pursuant to this Settlement will be reported by the Claims
16 Administrator as required to the state and federal taxing authorities on IRS forms 1099
17 and W-2 or similar forms. Each Participating Class Member and/or Participating
18 Collective Member will be responsible for paying all applicable state, local, and federal
19 income taxes on all amounts the Participating Class Member and/or Participating
20 Collective Member receives pursuant to this Agreement. Participating Class Members
21 and/or Participating Collective Members shall cooperate with Defendants and provide
22 documentation as requested to demonstrate such payment should any taxing authority
23 challenge the allocation of settlement payments.

24 a. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS
25 SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS
26 AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”)
27 ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT,
28 AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG

1 THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
2 INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE
3 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN
4 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31
5 CFR PART 10, AS AMENDED);

6 b. THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY
7 UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR
8 ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT,
9 (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
10 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR
11 TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
12 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
13 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
14 ACKNOWLEDGING PARTY; AND

15 c. NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS
16 IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY
17 SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
18 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
19 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF
20 ANY TRANSACTION.

21 **66. Appointment of Claims Administrator.** The Parties will ask the Court to
22 appoint CPT Group, Inc., or another agreed upon and qualified claims administrator, as
23 the Claims Administrator. The Claims Administrator agrees to be bound by this
24 Agreement with respect to the performance of its duties and its compensation. In
25 addition to performing any and all duties set forth in this Agreement, the Claims
26 Administrator shall set up a toll-free telephone number to receive calls from Class
27 Members and shall also be responsible for establishing a Qualified Settlement Fund
28 within the meaning of the Internal Revenue Code from which the payments described

1 herein will be issued.

2 **67. Preliminary Approval.** Plaintiff will move the Court for an order
3 preliminarily approving the Settlement; certifying the Settlement Class; certifying the
4 FLSA Collective; setting a date for the Final Approval Hearing; appointing Plaintiff as
5 the Class Representative, Clark Law Group and United Employees Law Group as Class
6 Counsel, and CPT or another agreed upon third party as the Claims Administrator;
7 approving the Class Notice, a true and correct copy of which is attached hereto as
8 Exhibit A; and approving the FLSA Claim Check Language, a true and correct copy of
9 which is attached hereto as Exhibit B. Plaintiff will file with the Court a proposed order
10 at the time Plaintiff files the motion for preliminary approval. Should the Court decline
11 to preliminarily approve all material aspects of the Settlement, the Settlement will be
12 null and void, and the Parties will have no further obligations hereunder. Provided,
13 however, that the amounts requested for the Service Award, Class Counsel Fees Award
14 and Class Counsel Costs Award, and Claims Administration Costs are not considered
15 material aspects of the Settlement for purposes of this paragraph.

16 **68. Notice to Class Members.** After the Court enters its order granting
17 preliminary approval of the Settlement, every Settlement Class Member will be
18 provided with a Notice Packet (inclusive of the Court-approved Class Notice and, if also
19 Collective-Eligible Class Member, the Court-approved FLSA Claim Check Language)
20 in accordance with the following procedure³:

21 a. Within fourteen (14) calendar days of the Preliminary Approval
22 Date, Defendants shall deliver to the Claims Administrator and Class Counsel the Class
23 List, in Microsoft Excel or similar format, containing for each Class Member, the
24 following information: his or her (1) full name, (2) last known mailing address, (3) last

25 _____
26 ³ Every Collective-Eligible Class Member is also a Settlement Class Member since the
27 FLSA Period (May 22, 2015 through the Preliminary Approval Date) is entirely within
28 the Class Period (May 22, 2014 through the Preliminary Approval Date). As such, by
sending a Notice Packet to every Settlement Class Member, every Collective-Eligible
Class Member will receive a Notice Packet.

1 known telephone number, (4) email address (if available), (5) social security number,
2 (6) dates the Class Member held the position of technology service technician, field
3 support representative or other similar position during the Class Period; (7) total
4 number of Workweeks worked during the Class Period, (8) dates the Class Member
5 held the position of technology service technician, field support representative or other
6 similar position during the FLSA Period (if any) and (9) total number of Workweeks
7 worked during the FLSA Period (if any).

8 b. Within fourteen (14) calendar days of receiving the Class List from
9 Defendants, the Claims Administrator will perform a National Change of Address
10 check, update addresses accordingly and mail the appropriate Notice Packet to each
11 identified Class Member via first-class regular U.S. Mail.

12 c. If an email address is available, within fourteen (14) calendar days of
13 receiving the Class List from Defendants, the Claims Administrator will send the
14 appropriate Notice Packet to each identified Class Member via email.

15 d. If a Notice Packet is returned because of an incorrect address, the
16 Claims Administrator will search for a more current address for the Class Member using
17 the National Change of Address database, skip traces, and other reasonable methods,
18 and re-mail the Notice Packet to the Class Member within five (5) business days from
19 receipt of the returned Notice. The Claims Administrator will be responsible for taking
20 reasonable steps to trace the mailing address of any Class Member for whom a Notice
21 Packet is returned as undeliverable by the U.S. Postal Service. These reasonable steps
22 shall include, at a minimum, the tracking of all undelivered mail; performing address
23 searches for all mail returned without a forwarding address; and promptly re-mailing the
24 Notice Packet to Class Members for whom new addresses are found. If the Notice
25 Packet is re-mailed, the Claims Administrator will note for its own records the date and
26 address of each such re-mailing.

27 e. The Claims Administrator shall provide to the Parties on a weekly-
28 basis a status report informing them of the number of Notice Packets mailed, the

1 number of Notice Packets returned as undeliverable, the number of Notice Packets re-
2 mailed, the number of timely and valid Request for Exclusions and Notice of Objections
3 received, and the number of timely and valid FLSA Claim Forms received.

4 f. No later than fourteen (14) calendar days after the Response
5 Deadline, the Claims Administrator shall provide the Parties with the total number of
6 Notice Packets mailed, the total number of Notice Packets returned as undeliverable, the
7 total number of Notice Packets re-mailed, the total number of timely and valid Request
8 for Exclusions and Notice of Objections received, and the total number of timely and
9 valid FLSA Claim Forms received. The Claims Administrator shall also cooperate in
10 providing a declaration to Class Counsel for filing with the Court in conjunction with
11 the motion for final approval of the Settlement Agreement and for any final accounting
12 or any other requirement. Before the Final Approval Hearing and final accounting, the
13 Claims Administrator will supplement its declaration of due diligence if any material
14 changes occur from the date of the filing of its prior declaration.

15 **69. Requests to be Excluded from the Settlement Class.** The Notice Packet
16 mailed to each Class Member shall explain that Class Members will automatically
17 receive a Class Settlement Share if they do not exclude themselves from the Settlement
18 Class. The Notice Packet will provide that Settlement Class Members who wish to
19 exclude themselves from the Settlement Class must submit a written Request for
20 Exclusion bearing a post-mark from a date within the Response Period. To be valid, a
21 Request for Exclusion must: (a) contain the name, address, telephone number and the
22 last four (4) digits of the social security number of the person requesting exclusion; (b)
23 state that “I understand that I am requesting to be excluded from the Settlement Class
24 and that I will not receive a Class Member Share under the settlement. I understand that,
25 if I exclude myself from of the Settlement Class, I may bring a separate action, but I
26 might lose my separate action or win and recover nothing or less than what I would
27 have recovered under the settlement provisions in this case”; (c) be addressed to the
28 Claims Administrator at the address stated in the Notice Packet; and (d) be signed by the

1 Class Member who is seeking exclusion. If a Class Member submits a deficient Request
2 for Exclusion (i.e. an unsigned submission or a submission that cannot be interpreted or
3 verified as authentic by the Claims Administrator), the Claims Administrator shall
4 notify the Class Member of the deficiency within five (5) business days of receipt. Class
5 Members who submit a deficient Request for Exclusions shall have until the Response
6 Deadline to cure any deficiencies, at which point his or her Request for Exclusion will
7 be rejected if not cured. Any Class Member who timely submits a valid Request for
8 Exclusion will no longer be a Class Member, will be barred from participating in and
9 objecting to this Settlement Agreement, and will not receive any benefit from this
10 Settlement Agreement.

11 a. **Binding Effect on Participating Class Members.** Except for those
12 Settlement Class Members who timely submit a valid Request for Exclusion, all Class
13 Members will be deemed Participating Class Members for all purposes under this
14 Agreement; will be bound by the terms, conditions, and releases set forth herein; and
15 will be deemed to have waived all objections and opposition to the fairness,
16 reasonableness, and adequacy of the Settlement, except as provided in paragraphs 71
17 and 75.

18 b. **Right to Rescission.** In the event that fifteen percent (15%) or more
19 of the Settlement Class Members properly exclude themselves from the Settlement
20 Class, Defendants shall have the right, but not the obligation to rescind the Settlement
21 Agreement, whereupon the definition of the Settlement Class and FLSA Collective shall
22 be vacated and the Action shall proceed without prejudice to any party's position on the
23 issue of class certification or any other issue. The Parties hereby agree that if
24 Defendants exercises their option to rescind the Settlement Agreement, Defendants shall
25 be responsible for any and all Claims Administration Costs incurred up to and including
26 the date of such rescission.

27 c. **No Solicitation of Exclusion.** Neither the Parties nor their respective
28 counsel will solicit or otherwise encourage directly or indirectly any Class Member to

1 request exclusion from the Settlement Class.

2 70. **Objections to Settlement.** The Notice Packet will provide that
3 Participating Class Members or Participating Collective Class Members may object to
4 the Settlement Agreement in writing and/or may appear at the Final Approval Hearing
5 to object to the Settlement Agreement. Participating Class Members or Participating
6 Collective Class Members who wish to object to the Settlement Agreement in writing
7 must file a written Notice of Objection bearing a post-mark from a date within the
8 Response Period with the court in which the Action is pending. To be valid, a Notice of
9 Objection must include: (1) the name, address, telephone number and the last four (4)
10 digits of the social security number of the objector, (2) the words “Notice of Objection”
11 or “Formal Objection,” (3) a written statement specifying the grounds for the objection,
12 including whether the objection(s) apply only to the objector, to a specific subset of the
13 class, or to the entire class, (4) a statement as to whether the objector intends to appear
14 at the Final Approval Hearing, and (5) the signature of the objector or the objector’s
15 counsel.

16 a. **Response to Objections.** Plaintiff and/or Defendants may file a
17 response to any Notice of Objection no later five (5) court days before the Final
18 Approval Hearing.

19 b. **No Solicitation of Objection.** Neither the Parties nor their respective
20 counsel will solicit or otherwise encourage directly or indirectly any Class Member to
21 object to the Settlement or appeal from the Judgment.

22 71. **FLSA Opt-In.** The FLSA Claim Check Language will be mailed in the
23 Notice Packet to each Collective-Eligible Class Member. The FLSA Claim Check
24 Language will inform the Collective-Eligible Class Members that they must consent to
25 be bound by the settlement of the FLSA Claim by opting-in to the FLSA Collective in
26 order to receive their proportionate share of the FLSA Settlement Amount. To opt-in to
27 the FLSA Collective, Collective-Eligible Class Members must endorse and/or cash
28 (tender) the FLSA Claim Check.

1 **72. Final Approval Hearing and Judgment.** In advance of the Final
2 Approval Hearing, Class Counsel will file unopposed motions for final approval of the
3 Settlement and a mutually agreed upon proposed Final Judgment of Class Action
4 Settlement. Class Counsel will also be responsible for drafting the application for the
5 Service Award, Class Counsel Fees Award, Class Counsel Costs Award, and a request
6 for approval of Claims Administration Costs, to be heard at the Final Approval Hearing.
7 The Final Approval Hearing will not be held earlier than twenty-one (21) calendar days
8 after the close of the Response Period. If the Court does not grant final approval of the
9 Settlement Agreement or if the Court's final approval of the Settlement is reversed or
10 materially modified on appellate review, then this Settlement will become null and void;
11 if that occurs, the Parties will have no further obligations under the Settlement.
12 Provided, however, that the Court's approval or denial of any amount requested and/or
13 modification of any amounts awarded for the Service Award, Class Counsel Fees
14 Award, Class Counsel Costs Award, and Claims Administration Costs are not
15 considered material aspects of the Settlement Agreement shall not operate to terminate
16 or cancel this Settlement Agreement. Nothing in this Agreement shall limit Class
17 Counsel's ability to appeal any decision by the Court to award less than the amounts
18 requested for the Service Award, Class Counsel Fees Award, Class Counsel Costs
19 Award, and Claims Administration Costs.

20 **73. Funding and Disbursement of Gross Settlement Amount.** The Gross
21 Settlement Amount shall be paid to the Claims Administration within fifteen (15)
22 calendar days of the Effective Date. The Claims Administrator shall make all Court-
23 approved payments for all claims, as outlined in paragraph 62, within fifteen (15)
24 calendar days after receipt of the Gross Settlement Amount from Defendants.

25 **74. Unclaimed Funds.** Participating Class and/or Collective Members must
26 cash or deposit the settlement check(s) representing their Class Member Share and/or
27 FLSA Settlement Share within one hundred and eighty (180) days after issuance by the
28 Claims Administrator. If any checks are not cashed or deposited within sixty (60) days

1 after issuance, the Claims Administrator will send a written reminder to each individual
2 with an outstanding settlement check remind them that if they fail to cash their check by
3 the 180-day deadline, it will expire and become non-negotiable, and offer to reissue the
4 check if it was lost or misplaced. The Claims Administrator will also send a written
5 reminder and call each individual who has an outstanding settlement check as of the
6 date that is one hundred and twenty (120) days after the date of issuance to remind them
7 that if they fail to cash their check by the 180-day deadline, it will expire and become
8 non-negotiable, and offer to reissue the check if it was lost or misplaced. If any
9 settlement checks remain outstanding after the expiration of the 180-day deadline, the
10 Claims Administrator will pay the funds represented by such checks to the East Bay
11 Community Law Center's Community Economic Justice Clinic for its Services and/or
12 Youth Advocacy Initiatives⁴ (or another acceptable non-profit organization should the
13 Court require it) as a *cy pres* beneficiary, within 5 calendar days of the close of the 180
14 calendar day period.

15 **75. Release of Claims.** Provided there is final approval of the Settlement
16 Agreement by the Court, then as of the Effective Date, each Participating Class
17 Member, individually and on behalf of all their respective successors, assigns, agents,
18 attorneys, executors, heirs and personal representatives, shall fully and finally release
19 and discharge Defendants and the Released Parties (as defined in paragraph 54) and
20 each of them, from the Released Claims (as defined in paragraph 53). The Released
21 Claims shall run during the Class Period and do not cover or include (1) the FLSA
22 Claim; (2) claims for Worker's Compensation; (3) claims for unemployment or
23 disability payments; (4) claims for discrimination, retaliation or harassment; (5) tort
24 claims; (6) or any other claims that cannot be released as a matter of law.

25 **a. Release by Participating Collective Members.** Provided the Court
26 grants final approval of the Settlement, then as of the Effective Date, each Participating
27

28 ⁴ <https://ebclc.org/need-services/community-economic-justice-clinic-services/>

1 Collective Member, individually and on behalf of all their respective successors,
 2 assigns, agents, attorneys, executors, heirs and personal representatives, shall fully and
 3 finally release and discharge Defendants and the Released Parties (as defined in
 4 paragraph 54) and each of them from any known or unknown claims for unpaid wages,
 5 including overtime wages, under the FLSA based on the facts asserted in the operative
 6 complaint in the Action from May 22, 2015 through the Preliminary Approval Date.

7 **b. Release by Augusto De Leon.** Provided the Court enters an order of
 8 final approval of the Settlement, then as of the Effective Date, Augusto De Leon,
 9 individually, for his successors, assigns, agents, executors, heirs and personal
 10 representatives, spouse and attorneys, and any and all of them voluntarily and with the
 11 advice of counsel, will waive and release any and all claims, obligations, demands,
 12 actions, rights, causes of action, and liabilities against Defendants and any of the
 13 Released Parties (as defined in paragraph 54) of whatever kind and nature, character,
 14 and description, whether in law or equity, whether sounding in tort, contract, federal,
 15 state and/or local law, statute, ordinance, regulation, constitution, common law, or other
 16 source of law or contract, whether known or unknown, and whether anticipated or
 17 unanticipated, including all claims arising from or relating to any and all acts, events
 18 and omissions occurring prior to the date of the signing of this Agreement including, but
 19 not limited to, all claims which relate in any way to his employment and/or separation
 20 from employment with Defendants or any of the other Released Parties. Plaintiff further
 21 releases all unknown claims against Defendants and any of the Released Parties,
 22 covered by California Civil Code Section 1542, which states:

23 **“A general release does not extend to claims which the**
 24 **creditor does not know or suspect to exist in his or her favor**
 25 **at the time of executing the release, which if known by him**
 26 **or her must have materially affected his or her settlement**
 27 **with the debtor.”**

28 **76. Waiver of Right to Appeal.** Provided that the Judgment is consistent with
 the terms and conditions of this Agreement, if Participating Class Members or
 Participating Collective Members do not timely file a valid Notice of Objection to the

1 Settlement, then the Parties and their respective counsel waive any and all rights to
2 appeal from the Judgment, including, but not limited to, all rights to any post-judgment
3 proceeding and appellate proceeding, such as a motion to vacate or set aside the
4 Judgment, and any extraordinary writ, and the Judgment will become non-appealable at
5 the time it is entered. The waiver of appeal does not include any waiver of the right to
6 oppose any invalid appeal, appellate proceedings or post-judgment proceedings. This
7 paragraph does not preclude Class Counsel from appealing from a refusal by the Court
8 to award the full amounts requested for the Service Award, Claims Administration
9 Costs, Class Counsel Fees Award and Class Counsel Costs Award. If an appeal is taken
10 from the Judgment, the time for consummation of the Settlement Agreement (including
11 making payments thereunder) will be suspended until such time as the appeal is finally
12 resolved or withdrawn and the Judgment becomes final.

13 **77. Vacating, Reversing, or Modifying Judgment on Appeal.** If, after a
14 notice of appeal, the reviewing court vacates, reverses, or modifies the Judgment such
15 that there is a material modification to the Settlement, and that court's decision is not
16 completely reversed, and the Judgment is not fully affirmed on review by a higher court,
17 then this Settlement will become null and void at the Parties election and the Parties will
18 have no further obligations under it. An order to vacate, reverse, or modify the amounts
19 awarded by the Court for the Service Award, Attorneys' Fees and Litigation Costs, or
20 Claims Administration Costs will not constitute a vacation, reversal, or material
21 modification of the Judgment within the meaning of this paragraph. A material
22 modification would include, but is not necessarily limited to, any alteration of the Gross
23 Settlement Amount, an alteration in the calculation of the Net Settlement Amount, and
24 any change to the Released Claims and Released Parties.

25 **78. Certification of Completion.** Within fourteen (14) calendar days after
26 completion of administration of the settlement, the Claims Administrator will provide a
27 written declaration under oath to certify such completion and the total sum of
28 Unclaimed Funds as of the date of completion, to the Court and counsel for all Parties.

1 79. **Notice.** All notices, demands, or other communications given under this
 2 Agreement will be in writing and deemed to have been duly given as of the third (3)
 3 business day after mailing by United States mail, addressed as follows:

| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| To Plaintiff and the Class: | To Defendants: |
| <p>5 R. Craig Clark Monique Rodriguez 6 CLARK LAW GROUP 205 West Date Street San Diego, CA 92101 Telephone: (619) 239-1321 Facsimile: (888) 273-4554</p> <p>9 Walter Haines 10 UNITED EMPLOYEES LAW GROUP 5500 Bolsa Ave., Suite 201 Huntington Beach, CA 92649 Telephone: (562) 256-1047 Facsimile: (562) 256-1006</p> | <p>John R. Giovannone Candace DesBaillets 11 CAROTHERS DiSANTE & 12 FREUDENBERGER LLP 707 Wilshire Boulevard, Suite 5150 Los Angeles, CA 90017 Telephone: (213) 612-6300 Facsimile: (213) 612-6301</p> |

13 80. **Continuing Jurisdiction.** After entry of the Judgment, the Court shall have
 14 continuing jurisdiction over the Action and all parties hereto, including Participating
 15 Class Members and Participating Collective Members, for purposes of (a) enforcing this
 16 Settlement Agreement, (b) addressing claims administration matters, and (c) addressing
 17 such post-judgment matters as may be appropriate under Court rules or applicable law.

18 81. **Amended Complaint.** The Parties have filed a joint stipulation allowing
 19 Plaintiff to file a Second Amended Complaint in the Action. Plaintiff has supplemented
 20 the claims in the first amended complaint with additional claims for unpaid wages under
 21 the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 *et seq.* and for paid
 22 sick days (per Labor Code §§ 246 *et seq.* as originally addressed in the *Lopez* action)
 23 and expressly include the field support representative position in the definition of the
 24 putative class. If this Agreement does not become final for any reason, Plaintiff reserves
 25 the right to seek leave to file a Third Amended Complaint. Defendants agree not to
 26 oppose such request.

27 ///

1 82. **Dismissal of *Lopez* Action.** Within fourteen (14) calendar days of the
2 Effective Date, the parties to the *Lopez* Action have agreed that Hector Lopez will file a
3 request for dismissal of the *Lopez* Action with prejudice.

4 83. **Miscellaneous Terms.** The Parties hereby agree to the following:

5 a. **No Financial Interest in Claims Administrator.** The Parties
6 hereby represent that they do not have any financial interest in CPT or otherwise have a
7 relationship with CPT that could create a conflict of interest.

8 b. **Construction.** The Parties acknowledge that they are entering into
9 this Agreement as a free and voluntary act without duress or undue pressure or influence
10 of any kind or nature whatsoever, and that neither Plaintiff nor Defendants have relied
11 on any promises, representations or warranties regarding the subject matter hereof other
12 than as set forth in this Agreement. The Parties further acknowledge and agree that the
13 Parties have cooperated in the drafting and preparation of this Agreement. This
14 Agreement will not be construed against any Party on the basis that the Party was the
15 drafter or participated in the drafting.

16 c. **Fair Settlement.** The Parties and their respective counsel believe
17 and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of
18 the Action and have arrived at this Agreement through arms-length negotiation,
19 considering all relevant factors, both current and potential.

20 d. **No Admission of Fault, Wrongdoing, or Liability.** By settling this
21 Action, Defendants do not admit guilt, wrongdoing, or liability of any kind whatsoever.

22 e. **Waiver of Right to Request Exclusion and/or Object.** By signing
23 this Agreement, Plaintiff, on behalf of the putative class and himself, agrees to be bound
24 by its terms and not to request to be excluded from the Settlement Class and/or object to
25 any of the terms of the Settlement Agreement. Likewise, Defendants agree to be bound
26 by the terms of the Settlement Agreement and agree not to object to any of the terms of
27 the Settlement Agreement.

28 ///

1 f. **Attorney Authorization.** Class Counsel and Counsel for Defendants
2 warrant and represent that they are authorized by Plaintiff and Defendants, respectively,
3 to take all appropriate action required or permitted to be taken by such Parties under this
4 Agreement to effectuate its terms, and to execute any other documents required to
5 effectuate the terms of this Agreement except that Plaintiff and Defendants must sign
6 this Agreement. The Parties and their counsel will cooperate with each other and use
7 their best efforts to affect the implementation of the Agreement.

8 g. **Modification of Agreement.** This Agreement, and any and all parts
9 of it, may be amended, modified, changed, or waived only by an express written
10 instrument signed by all Parties or their counsel of record.

11 h. **Dispute Resolution.** Any disputes between the Parties and/or their
12 counsel arising out of or relating to this Agreement will be submitted to mediator Lisa
13 Klerman for mediation.

14 i. **Binding on Successors.** This Agreement will be binding upon, and
15 inure to the benefit of, the successors of each of the Parties.

16 j. **No Prior Assignment.** Plaintiff hereby represents, covenants, and
17 warrants that he has not directly or indirectly, assigned, transferred, encumbered, or
18 purported to assign, transfer, or encumber to any person or entity any portion of any
19 liability, claim, demand, action, cause of action or rights herein released and discharged.

20 k. **Future Rights.** Nothing in this Settlement shall serve as a waiver of
21 future rights.

22 l. **Applicable Law.** All terms and conditions of this Agreement and its
23 exhibit will be governed by and interpreted according to the laws of the United States
24 and, without giving effect to any conflict of law principles or choice of law principles.

25 m. **Confidential Settlement Document.** This Agreement is a
26 confidential settlement document and may not be admitted into evidence of used in any
27 proceeding except an action, motion or proceeding to approve, interpret or enforce the
28 terms of this Settlement Agreement. If the Court does not approve the Settlement

1 Agreement, the Parties reserve their rights with respect to the prosecution and defense
2 of the Action as if the Settlement never existed.

3 n. **Enforcement Action.** To the extent that any party, including any
4 Participating Class Member and/or Participating Collective Member, institutes any legal
5 action or other proceeding against any other party or parties to enforce the provisions of
6 this Settlement Agreement, to declare rights and/or obligations under this Settlement
7 Agreement, or to enjoin any proceedings in violation of this Settlement Agreement, the
8 successful party or parties shall be entitled to recover from the unsuccessful party or
9 parties reasonable attorneys' fees and costs incurred in connection with any enforcement
10 action.

11 o. **Integrated Agreement.** After this Agreement is signed and
12 delivered by all Parties and their counsel, this Agreement and its exhibits will constitute
13 the entire agreement between the Parties relating to the settlement, and it will then be
14 deemed that no oral representations, warranties, covenants, or inducements have been
15 made to any party concerning this Agreement or its exhibits other than the
16 representations, warranties, covenants, and inducements expressly stated in this
17 Agreement and its exhibits.

18 p. **Headings.** The descriptive heading of any section or paragraph of
19 this Agreement is inserted for convenience of reference only and does not constitute a
20 part of this Agreement.

21 q. **Dates.** If any of the dates in the Agreement fall on a weekend, bank
22 or court holiday, the time to act shall be extended to the next business day.

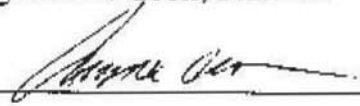
23 r. **Execution in Counterparts.** This Agreement may be executed in
24 one or more counterparts. All executed counterparts and each of them will be deemed to
25 be one and the same instrument provided that counsel for the Parties will exchange
26 between themselves original signed counterparts. Facsimile or electronic signatures will
27 be accepted and shall be binding on the Parties. Any executed counterpart will be
28 admissible in evidence to prove the existence and contents of this Agreement.

1 **IV. EXECUTION BY PARTIES AND COUNSEL**

2 IN WITNESS WHEREOF, the Parties and their counsel have executed this
3 Stipulation on the date below their signatures or the signature of their representatives.
4 The date of the Stipulation shall be the date of the latest signature.

5
6 Dated: SEPT. 18, 2019

Augusto De Leon, Plaintiff



7
8
9 Dated: _____, 2019

Ricoh USA, Inc. (on behalf of itself and as
10 successor-in-interest to IKON Office
11 Solutions, Inc.), Defendants

12
13 By: _____
14 Name: _____
15 Title: _____

16 Dated: _____, 2019

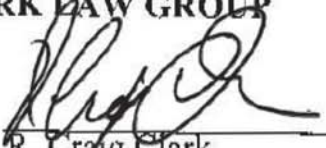
Ricoh Americas Corporation, Defendant

17
18 By: _____
19 Name: _____
20 Title: _____

21 **Approved as to form and content:**

22
23 Dated: September 19, 2019

CLARK LAW GROUP

24
25 By: 
26 R. Craig Clark
27 Monique R. Rodriguez
28 *Attorneys for Plaintiff and all others
similarly situated*

1 **IV. EXECUTION BY PARTIES AND COUNSEL**

2 IN WITNESS WHEREOF, the Parties and their counsel have executed this
3 Stipulation on the date below their signatures or the signature of their representatives.
4 The date of the Stipulation shall be the date of the latest signature.


5
6 Dated: _____, 2019

Augusto De Leon, Plaintiff

7 _____
8


9 Dated: September 16, 2019, 2019

Ricoh USA, Inc. (on behalf of itself and as
10 successor-in-interest to IKON Office
11 Solutions, Inc.), Defendants

12 By: 
13 Name: Christine L. Ciarrocchi
14 Title: VP, Asst. General Counsel, Litigation &
15 Employment Law

16 Dated: September 16, 2019, 2019

Ricoh Americas Corporation, Defendant

17 By: 
18 Name: Christine L. Ciarrocchi
19 Title: VP, Asst. General Counsel, Litigation &
20 Employment Law

21 **Approved as to form and content:**

22
23 Dated: _____, 2019

CLARK LAW GROUP

24
25 By: _____
26 R. Craig Clark
27 Monique R. Rodriguez
28 *Attorneys for Plaintiff and all others
similarly situated*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: September 18, 2019

UNITED EMPLOYEES LAW GROUP

By: 
Walter Haines
*Attorneys for Plaintiff and all others
similarly situated*

Dated: _____, 2019

**CAROTHERS DiSANTE &
FREUDENBERGER LLP**

By: _____
John R. Giovannone
Candace DesBaillets
Attorneys for Defendants


1 Dated: _____, 2019

UNITED EMPLOYEES LAW GROUP

2
3 By: _____
4 *Walter Haines*
5 *Attorneys for Plaintiff and all others*
6 *similarly situated*

7 Dated: September 18, 2019

**CAROTHERS DiSANTE &
FREUDENBERGER LLP**

8 
9 By: _____
10 *John R. Giovannone*
11 *Candace DesBaillets*
12 *Attorneys for Defendants*

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28