

1 **SUPPLEMENTAL DECLARATION OF RAYMOND P. BOUCHER**

2 I, Raymond P. Boucher, declare as follows:

3 1. I am an attorney duly admitted to practice before this Court. I am the named
4 partner of Boucher LLP, co-counsel of record for named plaintiffs Claudia Granciano and Ricardo
5 Contreras and proposed co-Class Counsel (“Class Counsel” in the above-captioned case against
6 Defendant Southwind Foods, LLC (“Southwind”), Defendant and Cross-Defendant Staffpoint,
7 LLC (“Staffpoint”), Defendant and Cross-Defendant Alliance Professional Business Solutions,
8 Inc. (“Alliance”), and Cross-Defendant Ashwin Syal (“Syal”) (collectively, “Defendants”).

9 2. I make this supplemental declaration in support of Plaintiffs’ Motion For
10 Preliminary Approval Of Class Action Settlement (“Motion”). I have personal knowledge of the
11 facts set forth herein, except as to those stated on information and belief and, as to those, I am
12 informed and believe them to be true. If called as a witness, I could and would competently testify
13 to the matters stated herein.

14 3. On April 26, 2018, the Court entered an order requiring Plaintiffs to file
15 supplemental briefing on certain settlement issues by May 31, 2018, and continuing the hearing on
16 Plaintiffs’ Motion to June 21, 2018, at 2:00 P.M. in Department 14 of the Spring Street
17 Courthouse. Attached as Exhibit 1 is a true and correct copy of the Court’s April 26, 2018 Order.

18 4. In order to address the Court’s concerns and issues, as stated in the April 26, 2018
19 Order, the parties agreed to amend certain settlement terms in the settlement agreement and the
20 proposed class notice. Attached as Exhibit 2 is a true and correct copy of the executed Amended
21 Stipulation Regarding Class Action Settlement and Release (“Amended Settlement Agreement”),
22 with a true and correct copy of the revised Notice of Proposed Class Action Settlement (“Class
23 Notice”) attached thereto as Exhibit 2(A). As of the date of this filing, all parties and their counsel,
24 except Defendant/Cross-Defendant Alliance, have signed the Amended Settlement Agreement.
25 Even Alliance’s counsel, Robert Hoodack, has signed it and has represented that he is working to
26 obtain Alliance’s signature. We expect, based on communications with Alliance’s counsel, that the
27 signature is forthcoming and will promptly submit it to the Court upon our receipt.

1 5. The Court’s April 26, 2018 Order also requested “red-lined” versions tracking any
2 changes made to the original settlement agreement and class notice. Attached as Exhibit 3 is a true
3 and correct copy of the red-lined version of the Amended Settlement Agreement, with a red-lined
4 copy of the Class Notice attached thereto as Exhibit 3(A).

5 6. Plaintiffs’ co-counsel have agreed to a fee split of 50% to Boucher, LLP, and 50%
6 to Law Offices of Sahag Majarian II, and Plaintiffs have provided their written approval of this fee
7 splitting arrangement.

8 7. The Court’s April 26, 2018 Order requested proof of service of the proposed
9 settlement on the Labor and Workforce Development Agency (“LWDA”). Attached as Exhibit 4 is
10 a true and correct copy of a March 6, 2018 auto-reply email from the California LWDA DIR
11 PAGA Unit to Neil M. Larson, an associate at my firm, confirming receipt of our submission of
12 the original Settlement Agreement.

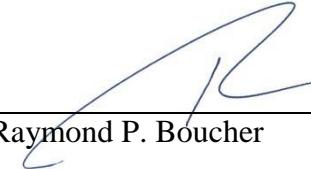
13 8. The Court’s April 26, 2018 Order requested a proposed schedule for class notice,
14 objection, claim submission, motion for final approval and attorneys’ fees, final accounting and
15 (as applicable), a final distribution of residual funds. Attached as Exhibit 5 is a true and correct
16 copy of the proposed schedule. In order to prepare the schedule of dates and deadlines, certain
17 assumptions needed to be made, such as the “effective date” for the settlement assuming no
18 objections were made, as well as the proposed Final Approval Hearing date. The proposed
19 schedule is also included in the Amended Proposed Order Granting Plaintiffs’ Motion.

20 9. The Court’s April 26, 2018 Order requested a red-lined version of Plaintiffs’
21 [Proposed] Third Amended Complaint, which tracks any changes that were made to the operative
22 Second Amended Complaint. Attached as Exhibit 6 is a true and correct copy of Plaintiffs’
23 [Proposed] Third Amended Class Action Complaint (“Third Amended Complaint” or “TAC”) in
24 redline format. A signed copy of the Third Amended Complaint is also lodged as Exhibit B to the
25 Amended Proposed Order lodged herewith.

26 10. Attached hereto as Exhibit 7 is a true and correct copy of the red-lined version of
27 the Amended [Proposed] Order granting Plaintiffs’ Motion for Preliminary Approval (without
28 exhibits thereto), tracking the changes made to the original proposed order.

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed on this 31st day of May, 2018, at Woodland Hills, California.

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6 Raymond P. Boucher

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EXHIBIT 1

PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

COPIED
ORIGNAL FILED
Superior Court of California
County of Los Angeles

Department: 14

APR 26 2018

Shawn R. Carter, Executive Officer/Clerk
By: Roxanne Avrigay, Deputy

RE: Claudia Granciano, et al. v. Southwind Foods, LLC, et al. (BC538900)

In reviewing your motion for preliminary approval of class action settlement, the Court Orders further briefing on the items checked below.

The additional briefing shall be due by May 31, 2018.

note: if briefing is not filed by said date the hearing will be placed off calendar.

Your hearing date set for May 1, 2018 is continued to the first available date of June 21, 2018, at 2:00 p.m., in Department 14 at the Spring Street Courthouse.

CLASS CERTIFICATION

- Class definition.
- Numerosity.
- Ascertainability. (*Sevidal v. Target Corp.* (2010) 189 Cal.App.4th 905.)
- Community of Interest

The community of interest requirement has three essential elements: "(1) predominant questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class." (*Linder v. Thrifty Oil Co.* (2000) 23 Cal.4th 429, 435.)

- Typicality
- Adequacy of class counsel and/or class representative
- Superiority

CASE SUMMARY

- Summary of the Case, including the legal and factual basis for each claim. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133; *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 409.)
- Summary of the investigation and discovery conducted by class counsel
- Reasonable estimate of the nature and amount of recovery that each class member could have obtained if Plaintiff prevailed. The most important factor is the strength of the

case for plaintiffs on the merits, balanced against the amount offered in settlement. (*Kullar* at 130.)

- Explanation of why the settlement was negotiated at arms-length and is not collusive

SETTLEMENT TERMS AND EVALUATION – FAIR, ADEQUATE AND REASONABLE

Proposed terms of the settlement

1. Provide a ‘not to exceed’ figure for attorney costs.
2. Extend the check-cashing deadline (¶2.21.a) to at least 180 days from the date of issuance.
3. The formula for calculating individual settlement payments (¶2.22) will not consume the Net if any Class Member opts out. Consider revising the formula so that each Class Member’s Compensable Workweeks are divided by the total Compensable Workweeks for all class members who do not opt out (i.e., “Settlement Class Members”).

- Nature of injunctive relief, and valuation of such relief.

- Amount and manner of distribution of the compensation to each class member, including the amount, or an estimate, of what each class member will receive

Explanation as to why the class representative enhancement is reasonable. (*Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 412; *Radcliffe v. Experian Information Solutions Inc.* (9th Cir. 2013) 715 F.3d 1157, 1165.)

- No supplemental briefing is required at this time, however, at final approval Class Counsel should be prepared to cite specific details regarding Plaintiffs’ service to the class. Absent exceptional circumstances, the court will not grant an enhancement award in excess of \$5,000 per representative.

- Whether, and under what circumstances, amounts may revert to Defendant.

- Justification for reversion to Defendant. (*Cundiff v. Verizon California, Inc.* (2008) 167 Cal.App.4th 718, 728-729.)

- Scope of the release. (*Israel-Curley v. California Fair Plan* (2005) 126 Cal.App.4th 123, 129; *Salehi v. Surfside III Condominium Owners' Assn.* (2011) 200 Cal.App.4th 1146, 1159-1161.)

The necessity of including a §1542 release as to the putative class members. In wage and hour class action lawsuits, the court will not approve a CC§1542 waiver as to putative class members, even as to released claims.

- Though not explicitly titled as such, ¶2.10 uses language strongly resembling that which is typically used in §1542 waivers. Please explain why this broad release of unknown claims is appropriate as to the putative class members.

- If wages are involved, how is Defendant's share of taxes being paid?
- Explain why the settlement includes terms that are outside the scope of the operative complaint. (*Trotsky v. Los Angeles Federal Savings and Loan Assn.* (1975) 48 Cal.App.3d 134, 148.)
- A statement of any affirmative obligations to be undertaken by the class member or class counsel and the reason for any such obligations

SUBMISSION OF CLAIMS/EXCLUSIONS/OBJECTIONS

- Explain why the claims process is not so burdensome that relief would be inaccessible to class members.
 - If class members are required to submit a claim to receive compensation, the motion should indicate why information is required to be furnished and an estimate of the anticipated claims rate
 - What actions class counsel will take to encourage submission of claims
 - Why the time limit to object or opt-out is reasonable.
 - Why the submission of a claim form is necessary
 - Consider making the objection procedure the same as the opt-out procedure, with the only requirement being that objections be mailed to the settlement administrator and not filed with the court.
- Delete all language indicating that class members may only be heard at final approval if they have complied with all objection procedures. (Settlement Agreement, ¶2.18.) Modify class notice accordingly. (pg. 7)

CY PRES DISTRIBUTION

- Why does such distribution fill the purposes of the lawsuit or is otherwise appropriate. (*State of California v. Levi Strauss & Co.* (1986) 41 Cal.3d 460, 472; *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706, 722; *Nachshin v. AOL, Inc.* (9th Cir. 2011) 663 F.3d 1034, 1038-1041; *Dennis v. Kellogg Co.* (9th Cir. 2012) 697 F.3d 858, 865; Cal. Code of Civ. Proc., §384.)

Declaration disclosing interests or involvement by any counsel or party in the governance or work of the cy pres recipient. (if applicable)

Modify the cy pres provision to comply with Code of Civil Procedure §384, as revised in 2017.

- Unless, for good cause, the Court makes a specific finding that an alternative distribution would better serve the public or class interest, uncashed checks must be distributed in accordance with CCP §384. (See *Cundiff, supra*, 167 Cal.App.4th at 729; 4 Witkin, Cal. Proc. 5th Plead § 331 (2008).)

Inadequate discussion of how the parties will handle uncashed checks.

NOTICE TO CLASS MEMBERS

Why the content of the notice complies with Cal. Rules of Court, rule 3.766(d)

1. Modify location of final approval hearing (Notice, pgs. 2 and 7) to 312 N. Spring Street, Los Angeles, CA 90012 in Department 14.
2. Correct the release of claims to indicate that Released Claims are those asserted in the Third Amended Complaint, rather than the Second Amended Complaint
3. The release disclosed in the Notice must include the full release language, as stated in ¶¶ 2.10, 1.34.a-d, and 1.37 of the Settlement Agreement.
4. Disclose the 'not to exceed' figure for attorney costs

Why the manner of giving notice complies with Cal. Rules of Court, rule 3.766(e)

How will notice of final judgment be given to the class? (Cal. Rules of Court, rule 3.771(b)) (e.g. posted on claims administrator's website)

Is English-only notice sufficient?

COSTS AND FEES

Proposed fees to the class counsel, the manner of payment and a preliminary justification under existing laws for such fees. Ca. Rules of court, Rule 3.769(b).

Information about how fees will be calculated. The percentage method, with or without a lodestar cross-check, may be used in common fund cases. (*Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 503.) For reversionary, claims-made cases, the percentage will be measured by the actual benefit to the class rather than a maximum settlement amount.

- Provide information regarding any agreement about how attorney fees will be paid, including fee splitting and whether the client has given written approval. (*Mark v. Spencer* (2008) 166 Cal.App.4th 219; Cal. Rules of Professional Conduct, §2-200; Cal. Rules of Court, rule 3.769.)

PAGA

- Proof of service of the proposed settlement on the LWDA. (Labor Code §2699(l)(2).)

EXHIBITS TO THE MOTION

- Proposed schedule for class notice, objection, opt-out, claim submission, motion for final approval and attorney fees, final accounting and, if applicable, a Final Distribution of Residual Funds

- A [Proposed] Order granting preliminary approval, which includes the applicable schedule items listed above, must be lodged with the motion.

Proposed Judgment should not include a dismissal. Cal. Rules of Court, rule 3.769(h).

- Please lodge a copy of the proposed Third Amended Complaint for the Court's review.

OTHER INFORMATION

- If the Settlement Agreement is modified pursuant to this checklist, please submit both a red-lined copy showing changes made as well as a final version signed by all parties. Modify notice and claim form to match any alterations to the Settlement Agreement.

- Modify notice to match any alterations to the Settlement Agreement.

Date: April 26, 2018

KENNETH R. FREEMAN

JUDICIAL OFFICER

Kenneth R. Freeman

A complete copy of the Preliminary Class Action Approval Guidelines can be found at the LA Superior Court's website under "Tools for Litigators."

EXHIBIT 2

1 Raymond P. Boucher, State Bar No. 115364
ray@boucher.la
2 Shehnaz M. Bhujwala, State Bar No. 223484
bhujwala@boucher.la
3 BOUCHER LLP
21600 Oxnard Street, Suite 600
4 Woodland Hills, California 91367-4903
Tel: (818) 340-5400
5 Fax: (818) 340-5401

6 Sahag Majarian II, State Bar No. 146621
sahagii@aol.com
7 LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
8 Tarzana, California 91356
Tel: (818) 609-0807
9 Fax: (818) 609-0892

10 *Attorneys for Plaintiffs and the Putative Class*

11 *[Additional Counsel of Record Listed on Next
Page]*

12

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

13

14

15 CLAUDIA GRANCIANO, individually and
on behalf of all others similarly situated,

Case No. BC538900

CLASS ACTION

16

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Plaintiff,

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v.

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SOUTHWIND FOODS, LLC, a California
limited liability company; STAFFPOINT,
LLC, a California limited liability company;
and DOES 1 through 50, inclusive,

**AMENDED STIPULATION REGARDING
CLASS ACTION SETTLEMENT AND
RELEASE**

21

Defendants.

*Assigned for All Purposes to:
Hon. Kenneth R. Freeman, Dept. 14*

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Action Filed: March 11, 2014
Trial Date: None

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1 JOHN L. BARBER, State Bar Number 160317
john.barber@lewisbrisbois.com
2 ALISON M. MICELI, State Bar Number 243131
alison.miceli@lewisbrisbois.com
3 LEWIS BRISBOIS BISGAARD & SMITH LLP
701 B Street, Suite 1900
4 San Diego, California 92101
Telephone: 619-233-1006
5 Facsimile: 619-233-8627

6 *Attorneys for Defendant and Cross-Complainant*
SOUTHWIND FOODS, LLC

7 Rob D. Cucher, State Bar Number 219726
cucherlaw@msn.com
8 LAW OFFICES OF ROB CUCHER
9 315 South Beverly Drive, Suite 310
Beverly Hills, California 90212
10 Telephone: 310-795-5356

11 *Attorney for Defendant and Cross-Defendant*
STAFFPOINT, LLC

12 Lawrence Hoodack, State Bar Number 97629
hoodack4@hotmail.com
13 LAW OFFICES OF LAWRENCE HOODACK
14 P.O. Box 28514
Anaheim, California 92809
15 Telephone: 714-634-2030

16 *Attorney for Defendant and Cross-Defendant*
ALLIANCE PROFESSIONAL BUSINESS SOLUTIONS, INC.

17 Carl John Pentis, State Bar Number 116453
carlpentis@gmail.com
18 CARL JOHN PENTIS, ATTORNEY AT LAW
19 500 N State College Blvd, Suite 1200
Orange, California 92868
20 Telephone: 714-385-9682
Facsimile: 714-385-9685

21 *Attorney for Cross-Defendant ASHWIN SYAL*

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28 4838-1841-2645.1

**AMENDED STIPULATION REGARDING
CLASS ACTION SETTLEMENT AND RELEASE**

Plaintiffs Claudia Granciano (“Granciano”) and Ricardo Contreras (“Contreras”) (collectively, “Plaintiffs”), individually and on behalf of themselves and the putative class, and Defendant/Cross-Complainant Southwind Foods, LLC (“Southwind”), Defendant/Cross-Defendant Staffpoint, LLC (“Staffpoint”), Defendant/Cross-Defendant Alliance Professional Business Solutions, Inc. (“Alliance”), and Cross-Defendant Ashwin Syal (“Syal”) (collectively, the “Parties”) hereby stipulate to the settlement and release of claims asserted by Plaintiffs and the putative class against Defendants, and cross-claims by Southwind Foods against Cross-Defendants, in the matter entitled *Granciano, et al. v. Southwind Foods, LLC, et al.*, Los Angeles Superior Court Case No. BC538900, pursuant to the terms and conditions of this Amended Stipulation Regarding Class Action Settlement and Release set forth below, subject to the approval of the Court.

RECITALS

15 WHEREAS, on March 11, 2014, Granciano filed a Class Action Complaint against
16 Southwind and Staffpoint in the Superior Court of California, County of Los Angeles, alleging
17 claims for (1) Failure to Pay Wages for All Hours Worked (Cal. Lab. Code § 1194); (2) Failure to
18 Timely Pay Wages Upon Termination or Resignation (Cal. Lab. Code §§ 201 and 202); (3) Failure
19 to Furnish Accurate Wage Statements (Cal. Lab. Code § 226(a)); and (4) Unlawful, Deceptive,
20 and/or Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*);

WHEREAS, on August 28, 2014, Staffpoint filed its Notice of Appearance;

WHEREAS, on November 4, 2014, Southwind filed its Answer to the Class Action Complaint;

WHEREAS, on May 21, 2015, Granciano filed a First Amended Class Action Complaint (“FAC”) with leave of Court, which alleged two additional causes of action following certain discovery; namely, Failure to Pay Overtime Compensation (Cal. Lab. Code § 510) and Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7 and 512), named Doe Defendant 1 as Alliance Professional Business Solutions, Inc., and corrected a typographical error in the proposed class

1 definition;

2 WHEREAS, on June 19, 2015, Southwind filed its Answer to the FAC, and also filed a
3 Cross-Complaint against Staffpoint, Alliance, and Syal for alleged breach of contract, contractual
4 indemnity, equitable indemnity, comparative indemnity and contribution, declaratory relief,
5 promissory fraud, and negligent misrepresentation;

6 WHEREAS, on July 8, 2015, Granciano filed a Second Amended Class Action Complaint
7 (“SAC”) with leave of Court, adding Contreras as an additional Plaintiff who, like Granciano,
8 seeks relief for alleged violations of California Labor Code section 226(a), but also seeks relief
9 pursuant to the California Private Attorneys General Act of 2004 (“PAGA”) (Cal. Lab. Code §§
10 2698, *et seq.*) on behalf of himself and other aggrieved employees;

11 WHEREAS, on August 7, 2015, Southwind answered the SAC;

12 WHEREAS, on August 11, 2015, Staffpoint answered the SAC;

13 WHEREAS, on September 17, 2015, Alliance answered the SAC;

14 WHEREAS, on February 8, 2016, the Court overruled the demurrer to Southwind’s Cross-
15 Complaint by Alliance and Syal;

16 WHEREAS, the Parties have exchanged certain documents, information, data, calculations
17 and analyses relating to the claims and defenses in the operative Complaint and Cross-Complaint
18 through formal and informal discovery;

19 WHEREAS, on February 25, 2016, the Parties participated in an all-day mediation before
20 the Honorable Judge Carl J. West (Ret.) of JAMS in Los Angeles, an experienced and well-known
21 class action mediator, and reached an agreement on the material terms of a proposed settlement of
22 claims and cross claims;

23 WHEREAS, between the time of mediation to approximately July, 2017, the Parties have
24 addressed a significant issue with Defendants’ record-keeping in order to verify and augment the
25 proposed Class List, which included substantial efforts by counsel for the Parties to resolve with
26 guidance from the Court, and Plaintiffs’ counsel’s advancement of substantial litigation costs to
27 Southwind and Alliance each for data processing work needed to complete the Class List and
28 maintain key, favorable features of the terms of the proposed settlement (e.g., notice by U.S. Mail,

1 opt-out settlement not requiring claims process, etc.);

2 WHEREAS, Defendants deny Plaintiffs' allegations of wrongdoing, fault or liability,
3 contend the claims in the operative Complaint lack merit, would have continued to resist
4 vigorously Plaintiffs' claims and contentions, and would have continued to assert their defenses
5 thereto had this Stipulation not been reached; and have entered into this Stipulation to put the
6 claims to rest finally and forever solely for the purpose of avoiding prolonged and expensive
7 litigation, without acknowledging any fault, wrongdoing or liability; and

8 WHEREAS, Plaintiffs and their counsel believe that the claims asserted in the operative
9 Complaint are meritorious, but they have considered and weighed the issues involved in
10 establishing the validity of their claims and have concluded that, in light of the uncertainty of the
11 outcome as well as the substantial risks and inevitable delay in proceeding to trial, compared to the
12 benefits being provided hereby, the terms and conditions set forth herein are fair and reasonable
13 and should be submitted to the Court for approval.

14 NOW, THEREFORE, without any admission or concession on the part of Plaintiffs or
15 Cross-Complainant of any lack of merit of the Action, and without any admission or concession
16 on the part of Defendants or Cross-Defendants of any liability or wrongdoing or lack of merit in
17 the defenses, IT IS HEREBY STIPULATED AND AGREED, by and among the Parties to this
18 Stipulation, through their respective counsel, subject to the approval of the Court, in consideration
19 of the benefits flowing to the Parties hereto from the Settlement, that all Released Claims as
20 against the Released Parties shall be compromised, settled, released, and judgment entered, upon
21 and subject to the following terms and conditions:

22 **1. DEFINITIONS**

23 The following capitalized terms shall have the following meanings unless otherwise
24 defined herein:

25 1.1 “Action” means *Granciano, et al. v. Southwind Foods, LLC, et al.*, Los
26 Angeles Superior Court Case No. BC538900, which is currently pending before the Honorable
27 Kenneth R. Freeman in the Superior Court of the State of California, County of Los Angeles.

28 1.2 “Agreement,” “Settlement Agreement,” “Settlement” or “Stipulation”

means this Amended Stipulation Regarding Class Action Settlement and Release.

1.3 "Class Counsel" and "Plaintiffs' Counsel" mean and refer to, collectively, Raymond P. Boucher, Esq., Shehnaz M. Bhujwala, Esq., and Neil M. Larsen, Esq. of Boucher LLP, and Sahag Majarian, II., Esq. of the Law Offices of Sahag Majarian, II.

1.4 "Class Counsel Fees" mean the amount of attorneys' fees authorized by the Court to be paid to Class Counsel for the services they have rendered in prosecuting this Action. Class Counsel Fees are not to exceed Two Hundred Forty Nine Thousand Nine Hundred Seventy Five Dollars (\$249,975). Class Counsel Fees shall be paid from the Gross Settlement Fund. Any portion of the requested Class Counsel Fees not awarded to Class Counsel shall be part of the Net Settlement Fund and distributed to Settlement Class Members as provided in this Agreement.

1.5 "Class Counsel Costs" mean the amount authorized by the Court to be paid to Class Counsel for expenses and costs incurred in prosecuting this Action. Class Counsel Costs are not to exceed Twenty-Six Thousand Dollars (\$26,000). Class Counsel Costs shall be paid from the Gross Settlement Fund. Any portion of the requested Class Counsel Costs not awarded to Class Counsel shall be part of the Net Settlement Fund and distributed to Settlement Class Members as provided in this Agreement.

1.6 "Class" and "Class Members" mean all current and former non-exempt employees employed by Southwind Foods, LLC, Staffpoint, LLC, and/or Alliance Professional Business Solutions, Inc. who worked in any of Southwind Foods, LLC's facilities located in California at any time during the Class Period (March 11, 2010 through May 1, 2016). Defendants estimated as of January 2018 there are approximately 907 Class Members, including Plaintiffs.

1.7 "Class List" or "Class Information" means a list of Class Members that Defendants in good faith will compile from their records and provide to the Settlement Administrator. The Class List shall be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Class Member's full name, last known mailing address, last known telephone number, start date(s) of employment, end date(s) of employment, total Compensable Work Weeks, and Social Security numbers to the extent available from Defendants' records. The Class list shall also include the sum total of all Compensable Work Weeks for the

1 Class Members, which Defendants represented at mediation to be approximately 41,000 based on
2 a partial Class List. Because Social Security numbers are included in the Class List, the Settlement
3 Administrator will maintain the Class List in confidence, and access shall be limited to those with
4 a need to use the Class List as part of the administration of the Settlement.

5 1.8 “Class Period” means the period from March 11, 2010 through May 1,
6 2016.

7 1.9 “Class Representatives” mean Claudia Granciano and Ricardo Contreras in
8 their capacity as representatives of the Class.

9 1.10 “Class Representative Service Awards” mean the amounts that the Court
10 authorizes to be paid to each of the Plaintiffs if appointed as Class Representatives, not to exceed
11 Ten Thousand Dollars (\$10,000) each, in addition to their Individual Settlement Payments, in
12 recognition of their efforts made and risks incurred in assisting with the prosecution of the Action
13 on behalf of Class Members, and as consideration for executing this Agreement and general
14 release of their claims against Defendants.

15 1.11 “Compensable Work Weeks” mean the number of weeks worked by Class
16 Members during the Class Period according to Defendants’ records. A workweek is defined as a
17 fixed and regularly recurring period consisting of seven consecutive 24-hour periods totaling 168
18 hours.

19 1.12 “Court” means the Superior Court of the State of California, County of Los
20 Angeles.

21 1.13 “Cross-Defendants” mean Staffpoint, LLC, Alliance Professional Business
22 Solutions, Inc., and Ashwin Syal.

23 1.14 “Defendants” mean Southwind Foods, LLC, Staffpoint, LLC, and Alliance
24 Professional Business Solutions, Inc.

25 1.15 “Defendants/Cross-Defendants” mean Southwind Foods, LLC, Staffpoint,
26 LLC, Alliance Professional Business Solutions, Inc., and Ashwin Syal.

27 1.16 “Effective Date” means the later of one day after: (a) if no Class Member
28 timely files a valid Objection to the Settlement, the date on which the Court grants final approval

1 of the Settlement; or (b) if a Class Member timely files a valid Objection to the Settlement but
2 does not timely initiate an appeal, the date on which the time period expires for appeals by Class
3 Members who timely submitted a valid Objection to the Settlement, from any Order ruling on any
4 objections to the Settlement or granting final approval of the Settlement; or (c) if a Class Member
5 timely files a valid Objection to the Settlement and timely initiates an appeal from any Order
6 ruling on any objections to the Settlement or granting final approval of the Settlement, the
7 resolution of any such appeal.

8 1.17 “Estimated Individual Settlement Payment” means the estimated amount
9 payable to each Settlement Class Member who does not submit a valid and timely Request for
10 Exclusion, as calculated pursuant to Paragraph 2.22 herein and assuming, for purposes of the
11 calculation, that the Net Settlement Fund equals \$432,025 and that no Class Member submits a
12 valid and timely Request for Exclusion.

13 1.18 “Final Approval Hearing” means the hearing at which the Court considers
14 whether to finally approve the Settlement and to enter the Final Judgment.

15 1.19 “Final Approval Order” means the Court’s order granting final approval of
16 the Settlement. The Parties will submit a proposed Final Approval Order to the Court in a form to
17 be agreed upon by the Parties prior to the Final Approval Hearing.

18 1.20 “Final Judgment” means the Court’s order of final judgment in this Action
19 following the Court’s entry of the Final Approval Order. The Parties will submit a proposed Final
20 Judgment to the Court in a form to be agreed upon by the Parties prior to the Final Approval
21 Hearing.

22 1.21 “FLSA Settlement Class Members” mean, and refer to, a Settlement Class
23 Member who timely cashes his or her Individual Settlement Payment check, and thereby will be
24 deemed to have opted into the action for purposes of the Fair Labor Standards Act (29 U.S.C. §§
25 201, *et seq.*) (“FLSA”), and thereby waived and released any claims such Settlement Class
26 Members may have under the FLSA only as related to the Released Claims.

27 1.22 “LWDA PAGA Allocation” means the amount payable from the Gross
28 Settlement Fund to the State of California’s Labor and Workforce Development Agency and the

1 Settlement Class, or \$10,000, as further specified in Paragraph 2.25 herein.

2 1.23 “Gross Settlement Fund” or “GSF” means Defendants/Cross-Defendants’
3 total funding obligation under this Stipulation, exclusive of Defendants’ payroll tax obligations,
4 which shall be paid separately by Southwind in addition to the GSF. The GSF is \$750,000. The
5 GSF shall be paid as follows: \$623,500 by Southwind, \$50,000 by Travelers Casualty and Surety
6 Company of America on behalf of Southwind, \$50,000 by Alliance, \$25,000 by Syal, and \$1,500
7 by Staffpoint.

8 1.24 “Individual Settlement Payment” means the amount payable from the Net
9 Settlement Fund to each Settlement Class Member who does not timely submit a Request for
10 Exclusion from the Settlement.

11 1.25 “Net Settlement Fund” means the Gross Settlement Fund, less Class
12 Counsel Fees, Class Counsel Costs, Class Representative Service Awards, Settlement
13 Administration Costs, and the LWDA PAGA Allocation portion paid to the LWDA. Assuming all
14 requested fees, costs, and awards are granted as requested, the Parties estimate this amount to be
15 \$432,025.

16 1.26 “Notice of Settlement” means the Notice of Proposed Class Action
17 Settlement (substantially in the form attached hereto as Exhibit “A”).

18 1.27 “Notice Packet” means the Notice of Proposed Class Action Settlement and
19 self-addressed, stamped envelope (substantially in the form attached hereto as Exhibit A).

20 1.28 “Parties” mean Plaintiffs and Defendants/Cross-Defendants; and “Party”
21 shall mean either Plaintiffs or Defendants/Cross-Defendants, individually.

22 1.29 “Payment Ratio” means the respective Compensable Work Weeks for each
23 Class Member divided by the total Compensable Work Weeks for all Class Members.

24 1.30 “Plaintiffs” mean Plaintiffs Claudia Granciano and Ricardo Contreras.

25 1.31 “Plaintiffs’ Released Claims” mean all Released Claims as defined herein
26 plus the general release described in Paragraph 2.11.

27 1.32 “Preliminary Approval” or “Preliminary Approval Date” means the date the
28 Court enters the Preliminary Approval Order.

- 1 1.33 “Preliminary Approval Order” means the Proposed Order.
- 2 1.34 “Released Claims” mean any and all claims asserted in the Action against
- 3 the Released Parties, or that could have been asserted against the Released Parties based upon the
- 4 facts alleged in the Third Amended Class Action Complaint to be filed with the Court, by
- 5 Plaintiffs or any Settlement Class Member, under the California Labor Code, California Wage
- 6 Orders, California Unfair Competition Law, PAGA, and FLSA, from March 11, 2010 through
- 7 May 1, 2016.
- 8 a. The Released Claims include, but are not limited to, claims for: (1)
- 9 Failure to Pay Wages for All Hours Worked (Cal. Lab. Code § 1194) due to Defendants’ alleged
- 10 time-rounding policies resulting in alleged underpayment of wages for regular and/or overtime
- 11 hours worked by Plaintiff Granciano and Class Members; (2) Failure to Pay Overtime
- 12 Compensation (Cal. Lab. Code § 510) due to Defendants’ alleged rounding policies applicable to
- 13 Plaintiff Granciano and Class Members and auto-deductions of 30 minutes of total time worked
- 14 and alleged attributions of that time to meal periods without pay; (3) Failure to Provide Meal
- 15 Periods (Cal. Lab. Code §§ 226.7 and 512) for Defendants’ alleged failure to provide timely
- 16 requisite meal periods of not less than 30 minutes to Plaintiff Granciano and Class Members who
- 17 worked over five hours per shift and who worked over ten hours per shift, or to pay premium
- 18 payments in lieu thereof; (4) Failure to Timely Pay Wages Upon Termination or Resignation (Cal.
- 19 Lab. Code §§ 201 and 202) to Plaintiff Granciano and Class Members; (5) Failure to Furnish
- 20 Accurate Wage Statements (Cal. Lab. Code § 226(a)) to Plaintiffs and Class Members (from
- 21 March 11, 2013 through May 1, 2016); (6) Unlawful, Deceptive, and/or Unfair Business Practices
- 22 (Cal. Bus. & Prof. Code §§ 17200, *et seq.*) for the alleged violations set forth herein; and (7)
- 23 PAGA (Cal. Lab. Code §§ 2698, *et seq.*) for the alleged violations set forth herein. The Released
- 24 Claims also include all claims for interest and/or penalties of any kind or nature arising out of or
- 25 relating to the Released Claims and further extends to and includes claims for damages, civil
- 26 penalties, restitution, injunctive relief, declaratory relief, and any other form of relief or remedy.
- 27 b. The Released Claims also include all claims Plaintiffs and
- 28 Settlement Class Members may have against the Released Parties relating to (i) the payment and

1 allocation of attorneys' fees and costs to Class Counsel pursuant to this Agreement, and (ii) the
2 payment of the Class Representative Service Awards pursuant to this Agreement. It is the intent of
3 the Parties that the judgment entered by the Court upon final approval of the Settlement shall have
4 *res judicata* effect and be final and binding upon Plaintiffs and all Settlement Class Members
5 regarding all of the Released Claims.

6 c. **FLSA Release:** Additionally, any Settlement Class Member who
7 timely cashes his or her Individual Settlement Payment check, including either of the Plaintiffs,
8 will thereby be deemed to have opted into the action for purposes of the FLSA claim asserted in
9 the TAC under 29 U.S.C. §§ 201, *et seq.*, and waived and released any claims such Settlement
10 Class Members may have under the FLSA only as related to the Released Claims.

11 d. **Released Claims and FLSA Release Do Not Include Civil Code**

12 **Section 1542 General Release for Settlement Class Members:** For the sake of clarity, the
13 Parties agree that the Released Claims, including the FLSA Release, consist of only those claims
14 that meet the definition of Released Claims. In other words, the releases contemplated by
15 Settlement Class Members are not blanket waivers of California Civil Code section 1542 for
16 all claims, potential or actual, known or unknown, for violations of California's Labor Code,
17 Wage Orders or FLSA by current and former employees of Defendants.

18 1.35 “Released Cross-Claims” mean any and all claims asserted by Southwind
19 against Cross-Defendants in the Action, or that could have been asserted against Cross-Defendants
20 in the Action, based upon the facts alleged in the operative Cross-Complaint.

21 1.36 “Released Cross-Defendants” mean Cross-Defendants on behalf of
22 themselves, their parents, subsidiaries, agents, affiliates, directors, officers, and owners.

23 1.37 “Released Defendants” mean Defendants on behalf of themselves, their
24 parents, subsidiaries, agents, affiliates, directors, officers, and owners. “Released Parties” mean
25 Released Defendants and all Cross-Defendants, including Cross-Defendant Ashwin Syal, their
26 parents, subsidiaries, agents, affiliates, directors, officers, and owners.

27 1.38 “Request for Exclusion” means the Request for Exclusion from the
28 Settlement as outlined in the procedure set forth in Paragraph 2.17 below.

1 1.39 “Response Deadline” means the date sixty (60) days after the Settlement
2 Administrator mails Notice Packets to Class Members and the last date on which Class Members:
3 (a) may postmark, fax or email Requests for Exclusion; (b) or file and serve Objections to the
4 Settlement.

5 1.40 “Settlement” means disposition of the Action pursuant to this Agreement.

6 1.41 “Settlement Administration Costs” mean the amount to be paid to the
7 Settlement Administrator from the Gross Settlement Fund for the administration of the Settlement.

8 1.42 “Settlement Administrator” means Simpluris, Inc.

9 1.43 “Settlement Class Members” or “Settlement Class” means all Class
10 Members who do not opt out of the Settlement by timely submitting a Request for Exclusion.

11 1.44 “Settlement Fund Account” means the bank account established pursuant to
12 the terms of this Stipulation from which all monies payable under the terms of this Settlement
13 shall be paid, as set forth herein.

14 **2. TERMS OF AGREEMENT**

15 2.1 *Class Certification.* The Parties stipulate and agree to the conditional
16 certification of this Action and all claims asserted in the operative Complaint pursuant to
17 California Code of Civil Procedure section 382 for purposes of this Settlement only. Should the
18 Settlement not become final and effective as herein provided, class certification pursuant to this
19 Settlement shall be set aside (subject to further proceedings on the motion of any Party to certify
20 or deny certification thereafter). The Parties’ willingness to stipulate to class certification as part
21 of the Settlement shall have no bearing on, and shall not be admissible in or considered in
22 connection with, the issue of whether a class should be certified in a non-settlement context in this
23 Action and shall have no bearing on, and shall not be admissible or considered in connection with,
24 the issue of whether a class should be certified in any other lawsuit.

25 2.2 *Amendment of Operative Complaint.* As part of the Preliminary Approval
26 process, Plaintiffs shall amend the operative Complaint to add a cause of action for unpaid wages
27 pursuant to the FLSA and file it with the Court. Defendants will stipulate for leave to file the TAC
28 as set forth in this Paragraph. In the event that the Settlement does not become final for any

1 reason, then any Order permitting the filing of the TAC shall be treated by the Parties as void *ab*
2 *initio* and the SAC will become Plaintiffs' operative Complaint again.

3 2.3 *Jurisdiction.* The Parties agree that the Superior Court of California for
4 County of Los Angeles has jurisdiction over the Action, and also that venue is proper in that
5 Court.

6 2.4 *Benefits of Settlement to Settlement Class Members.* Plaintiffs and Class
7 Counsel recognize the expense and length of continued proceedings necessary to litigate their
8 disputes through trial and through any possible appeals. Plaintiffs have also taken into account the
9 uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in
10 such litigation. Plaintiffs and Class Counsel are also aware of the burdens of proof necessary to
11 establish liability for the claims asserted in the Action, both generally and in response to
12 Defendants' defenses thereto (many of which have been shared at the mediation), and potential
13 difficulties in establishing damages for the Settlement Class Members. Plaintiffs and Class
14 Counsel have also taken into account Defendants' agreement to enter into a settlement that confers
15 substantial relief upon Settlement Class Members, as well as their stated financial conditions. This
16 is an opt-out Settlement with no claims process and no reversion of settlement funds to
17 Defendants. Based on the foregoing, Plaintiffs and Class Counsel have determined that the
18 Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the
19 best interests of Settlement Class Members.

20 2.5 *Defendants' Reasons for Settlement.* Defendants have concluded that any
21 further defense of this litigation would be protracted and expensive for all Parties. Substantial
22 amounts of time, energy, and resources of Defendants have been and, unless this Settlement is
23 made, will continue to be devoted to the defense of the claims asserted by Plaintiffs and Class
24 Members. Defendants have also taken into account the risks of further litigation in reaching their
25 decision to enter into this Settlement. Despite continuing to contend that they are not liable for any
26 of the claims set forth by Plaintiffs in the Action, Defendants have, nonetheless, agreed to settle in
27 the manner and upon the terms set forth in this Agreement to put to rest the claims as set forth in
28 the Action.

1 2.6 *Class Members' Claims.* Class Members, by and through Plaintiffs, have
2 claimed and continue to claim that the Released Claims, including claims under the FLSA, have
3 merit and give rise to liability on the part of Defendants. This Agreement is a compromise of
4 disputed claims. Nothing contained in this Agreement and no documents referred to herein and no
5 action taken to carry out this Agreement may be construed or used as an admission by or against
6 the Class Members or Class Counsel as to the merits or lack thereof of the claims asserted.

7 2.7 *Defendants' and Cross-Defendants' Defenses.* Defendants have claimed
8 and continue to claim that the Released Claims, including the proposed claims under the FLSA,
9 have no merit and do not give rise to liability. Likewise, Cross-Defendants have claimed and
10 continue to claim that the Released Cross-Claims have no merit and do not give rise to liability.
11 This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no
12 documents referred to herein and no action taken to carry out this Agreement may be construed or
13 used as an admission by or against Defendants or Cross-Defendants as to the merits or lack thereof
14 of the claims or cross-claims asserted.

15 2.8 *Maximum Amount Payable by Defendants.* Under the terms of this
16 Settlement, the maximum amount payable by Defendants shall not exceed the Gross Settlement
17 Fund of Seven Hundred Fifty Thousand Dollars (\$750,000), exclusive of Defendants' employer-
18 side payroll tax obligations that shall be paid separately by Southwind in addition to the Gross
19 Settlement Fund.

20 2.9 *Class Size.* Defendants represented as of January 2018 that there are
21 approximately 907 Class Members.

22 2.10 *Release as to All Settlement Class Members.* As of the Effective Date, the
23 Settlement Class Members, including Plaintiffs, on behalf of themselves and their respective heirs,
24 successors, assigns, and estates, release the Released Parties from the Released Claims during the
25 Class Period. Plaintiffs and Settlement Class Members agree not to sue or otherwise make a claim
26 against any of the Released Parties for the Released Claims.

27 2.11 *General Release by Plaintiffs Only.* In addition to the releases made by
28 Settlement Class Members, Plaintiffs, on behalf of themselves, their heirs, successors, assigns, and

1 estates, in exchange for the terms and conditions of this Agreement, including the Service Awards
2 requested or as otherwise authorized by the Court, shall also, as of the Effective Date, fully and
3 forever release the Released Parties from Plaintiffs' Released Claims. With respect to Plaintiffs'
4 Released Claims only, Plaintiffs shall be deemed to have, and by operation of the Final Judgment
5 shall have, expressly waived and relinquished, to the fullest extent permitted by law, the
6 provisions, rights, and benefits of section 1542 of the California Civil Code, or any other similar
7 provision under federal or state law, which section provides:

8 *A general release does not extend to claims which the creditor does not know or*
9 *suspect to exist in his or her favor at the time of executing the release, which if*
10 *known by him or her must have materially affected his or her settlement with the*
11 *debtor.*

12 Plaintiffs may hereafter discover facts in addition to or different from those they now know
13 or believe to be true with respect to the subject matter of the Plaintiffs' Released Claims, but upon
14 the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall have,
15 fully, finally, and forever settled and released any and all of Plaintiffs' Released Claims, whether
16 known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or
17 heretofore have existed, upon any theory of law or equity now existing or coming into existence in
18 the future, including, but not limited to, conduct that is negligent, intentional, with or without
19 malice or a breach of any duty, law or rule, without regard to the subsequent discovery or
20 existence of such different or additional facts. Plaintiffs agree not to sue or otherwise make a claim
21 against any of the Released Parties for Plaintiffs' Released Claims.

22 2.12 *Release by Southwind of Cross-Claims.* Southwind shall release Released
23 Cross-Defendants from the Released Cross-Claims in exchange for Cross-Defendants'
24 contributions towards the GSF and shall dismiss with prejudice the Cross-Complaint within seven
25 (7) days of Released Cross-Defendants' respective payments to the Settlement Administrator of
26 their respective shares of the GSF (if payments are made on different dates, then the seven day
27 period runs from the last date on which any Released Cross-Defendant makes its/his payment).

28 2.13 *Tax Liability.* The Parties make no representations as to the tax treatment or

1 legal effect of the payments called for hereunder, and Plaintiffs and Settlement Class Members are
2 not relying on any statement or representation by the Parties in this regard. Plaintiffs and
3 Settlement Class Members understand and agree that they will be responsible for the payment of
4 any employee-side taxes and penalties assessed on the payments described herein and will hold the
5 Parties free and harmless from and against any claims resulting from treatment of such payments
6 as non-taxable damages, including the treatment of such payments as not subject to withholding or
7 deduction for payroll and employment taxes.

8 2.14 *No Knowledge Of Other Claims.* Class Counsel and Plaintiffs agree and
9 represent that they are not aware of any claim that could have been brought against Defendants by
10 any person or entity, other than the claims that were alleged in the Action, or could have been
11 alleged based on the facts alleged in the Action.

12 2.15 *Settlement Approval and Implementation Procedures.* As part of this
13 Settlement, the Parties agree to the following procedures for obtaining the Court's preliminary
14 approval of the Settlement, certifying a class for settlement purposes only, notifying Class
15 Members of the Settlement, obtaining the Court's final approval of the Settlement, and processing
16 Individual Settlement Payments and other payments described herein.

17 a. *Preliminary Approval and Certification.* Plaintiffs' submission for
18 Preliminary Approval will include this Agreement, the proposed Notice Packet, attached hereto as
19 Exhibit A, the proposed Preliminary Approval Order, and any motions, memoranda, and evidence
20 as may be necessary for the Court to determine that this Agreement is fair, adequate, and
21 reasonable. Plaintiffs will request the Court to enter an order preliminarily approving the terms of
22 the Agreement and the certification of a provisional settlement class, and requesting a Final
23 Approval Hearing, in accordance with California law. Plaintiffs will provide Defendants a
24 reasonable opportunity to review and provide comments regarding the briefing in support of
25 Plaintiffs' preliminary approval application (at least two days prior to filing).

26 b. *Class Information.* No more than fifteen (15) calendar days after
27 entry of the Preliminary Approval Order, Defendants shall provide the Settlement Administrator
28 with the Class Information for purposes of mailing Notice Packets to Class Members.

1 c. *Notice By First Class U.S. Mail.* Upon receipt of the Class
2 Information, the Settlement Administrator will perform a search on the National Change of
3 Address database to update the Class Members' addresses. No more than fourteen (14) calendar
4 days after receiving the Class Information from Defendants as provided herein, the Settlement
5 Administrator shall mail copies of the Notice Packet to all Class Members by regular First Class
6 U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current
7 mailing address for each Class Member. The address identified by the Settlement Administrator as
8 the current mailing address shall be presumed to be the best mailing address for each Class
9 Member. It will be conclusively presumed that, if an envelope so mailed has not been returned
10 within thirty (30) days of the mailing, the Class Member received the Notice Packet.

23 e. Compliance with the procedures specified in Paragraph 2.15(a)-(e)
24 herein shall constitute due and sufficient notice to Class Members of this Settlement and shall
25 satisfy the requirement of due process. Nothing else shall be required of, or done by, the Parties,
26 Class Counsel, and Defendants' counsel to provide notice of the proposed Settlement.

27 2.16 *Disputes Over Compensable Work Weeks.* Class Members will have the
28 opportunity, should they disagree with Defendants' records regarding the number of respective

1 Compensable Work Weeks worked by a Class Member, as set forth in the Notice of Settlement, to
2 provide documentation and/or an explanation to show contrary employment dates. If there is a
3 dispute, the Settlement Administrator will consult with the Parties to determine whether an
4 adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the
5 amounts of, any Individual Settlement Payments under the terms of this Agreement. The
6 Settlement Administrator's determination of the eligibility for and amount of any Individual
7 Settlement Payment shall be binding upon the Class Member and the Parties.

8 2.17 *Exclusions (Opt-Outs)*. The Notice Packet shall state that Class Members
9 who wish to exclude themselves from the Settlement must submit a written Request for Exclusion
10 by the Response Deadline. The Request for Exclusion: (1) must contain the name, address,
11 telephone number, and last four digits of the Social Security number of the person requesting
12 exclusion; (2) must be signed and dated by the Class Member; and (3) must be postmarked, faxed
13 or email stamped by the Response Deadline and returned to the Settlement Administrator at the
14 specified address, fax telephone number or email address. If the Request for Exclusion does not
15 contain the information listed in (1)-(2), it will not be deemed valid for exclusion from this
16 Settlement, except a Request for Exclusion form not containing a Class Member's telephone
17 number and/or last four digits of their Social Security number will be deemed valid. The date of
18 postmark on the Request for Exclusion, either based on the date on the return mailing envelope,
19 date of the fax stamp or date of email transmission, shall be the exclusive means used to determine
20 whether a Request for Exclusion has been timely submitted. Any Class Member who requests to
21 be excluded from the Settlement Class will not be entitled to any recovery under the Settlement
22 and will not be bound by the terms of the Settlement or have any right to object, appeal or
23 comment thereon. Class Members who receive a Notice Packet but fail to submit a valid and
24 timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of
25 the Settlement and any Final Judgment entered in this Action if the Settlement is approved by the
26 Court. No later than fourteen (14) calendar days after the Response Deadline, the Settlement
27 Administrator shall provide counsel for the Parties with a complete list of all members of the Class
28 who have timely submitted Requests for Exclusion. At no time shall any of the Parties or their

1 counsel seek to solicit or otherwise encourage any Class Member to submit a Request for
2 Exclusion from the Settlement.

3 2.18 *Objections.* The Notice Packet shall state that Class Members who wish to
4 object to the Settlement must mail a written statement of objection (“Notice of Objection”) to the
5 Settlement Administrator by the Response Deadline. The date of postmark on the return envelope,
6 fax date or email date shall be deemed the exclusive means for determining whether a Notice of
7 Objection was timely submitted. The Notice of Objection must be signed by the Class Member
8 and state: (1) the full name, address, and telephone number of the Class Member; (2) the dates of
9 employment of the Class Member; (3) the job title(s) and job location(s) of the Class Member; (4)
10 the last four digits of the Class Member’s Social Security number; (5) the basis for the objection;
11 and (6) whether the Settlement Class Member intends to appear at the Final Approval Hearing,
12 and provide any legal briefs, papers or memoranda the objecting Class Member proposes to
13 submit to the Court. Class Members who fail to make objections in the manner specified above
14 shall be deemed to have waived any written objections to the Settlement. No later than fourteen
15 calendar (14) days after the Response Deadline, the Settlement Administrator shall provide
16 counsel for the Parties with complete copies of all objections received, including the postmark
17 dates or other proof of timely submission for each objection. At no time shall any of the Parties or
18 their counsel seek to solicit or otherwise encourage Class Members to file or serve written
19 objections to the Settlement or appeal from the Final Approval Order and Final Judgment. Class
20 Counsel shall not represent any Class Members with respect to any such objections.

21 2.19 *No Solicitation of Settlement Objections or Exclusions.* The Parties agree to
22 use their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties or
23 their counsel seek to solicit or otherwise encourage Class Members to submit either written
24 objections to the Settlement or Requests for Exclusion from the Settlement, or to appeal from the
25 Court’s Final Judgment.

26 2.20 *Funding and Allocation of Settlement.* Defendants are required to pay the
27 sum of the Individual Settlement Payments, the Class Representative Service Awards, Class
28 Counsel Fees, Class Counsel Costs, the LWDA PAGA Allocation, and the Settlement

1 Administration Costs, as specified in this Agreement, up to the Gross Settlement Fund of Seven
2 Hundred Fifty Thousand Dollars (\$750,000).

3 a. Within fifteen (15) calendar days following the Effective Date of the
4 Settlement, Defendants/Cross-Defendants shall deposit into the Settlement Fund Account their
5 respective shares of the Seven Hundred Fifty Thousand Dollars (\$750,000) Gross Settlement Fund
6 owing in accordance with the terms of this Agreement. No distributions from the Settlement Fund
7 Account shall occur until authorization in writing or via e-mail is provided to the Settlement
8 Administrator by Class Counsel and Defendants' counsel. Any interest that accrues within the
9 Settlement Fund Account shall be applied toward the Gross Settlement Fund.

10 b. No more than five (5) business days after the Settlement is fully
11 funded, the Settlement Administrator will provide the Parties with an accounting of all anticipated
12 payments and awards from the fund. Payments from the fund shall be made for (1) Individual
13 Settlement Payments to Settlement Class Members, (2) the Class Representative Service Awards,
14 as specified in this Agreement and approved by the Court; (3) Class Counsel Fees and Class
15 Counsel Costs, as specified in this Agreement and approved by the Court; (4) Settlement
16 Administration Costs, as specified in this Agreement and approved by the Court; and (5) the
17 LWDA PAGA Allocation, as specified in this Agreement and approved by the Court.

18 2.21 *Individual Settlement Payments.* Individual Settlement Payments will be
19 paid from the Net Settlement Fund and shall be paid pursuant to the formula set forth in Paragraph
20 2.22 herein. Individual Settlement Payments shall be mailed by regular First Class U.S. Mail to
21 Settlement Class Members' last known mailing address within fourteen (14) calendar days after
22 the funding of the Settlement is completed. Individual Settlement Payments reflect settlement of a
23 dispute regarding wages and interest/penalties. Individual Settlement Payments will be allocated
24 as follows: forty percent (40%) as penalties; forty percent (40%) as interest; and twenty percent
25 (20%) as wages. The Settlement Administrator shall issue the appropriate tax documents
26 associated with the Individual Settlement Payments. Any checks issued to Settlement Class
27 Members shall remain valid and negotiable for 180 days from the date of issuance.

28 a. *Unclaimed Wages.* Subject to the Court's approval and a finding of

1 good cause, the unclaimed amounts from any Individual Settlement Payment checks that were not
2 cashed or deposited within 180 days from the date of issuance shall be held by the State of
3 California Unclaimed Wages Fund of the Department of Industrial Relations. Under this proposal
4 for distribution of unclaimed funds, if any Settlement Class Member does not cash or deposit his
5 or her Individual Settlement Payment check within 180 days after issuance, then 10 business days
6 after the 180-day deadline, the Settlement Administrator shall void the check and remit the funds
7 to the State of California Unclaimed Wages Fund for the benefit of the employee, together with a
8 spreadsheet identifying the information for each Settlement Class Member who did not timely
9 cash or deposit his or her Individual Settlement Payment check and the amount of the uncashed
10 check. The Parties agree that good cause exists for the Court to approve the proposed distribution
11 pursuant to California Code of Civil Procedure section 384, because the unclaimed funds include
12 unclaimed wages of employees that will be held by the State of California for the benefit of said
13 employees, who may request receipt of payment from the State of California Unclaimed Wages
14 Fund. Thus, the Parties believe that the proposed distribution would better serve the interests of
15 Settlement Class Members than the distribution proposed in California Code of Civil Procedure
16 section 384.

17 (i) However, if the Court ultimately decides that the distribution
18 specified in California Code of Civil Procedure section 384 should instead occur (i.e., that good
19 cause does not exist for the Parties' alternate distribution proposal described above), then the
20 Parties agree to the following distribution by the Settlement Administrator as specifically
21 permitted by California Code of Civil Procedure section 384 under the same timeline specified in
22 Paragraph 2.21(a): Any unclaimed amounts from any Individual Settlement Payments to
23 Settlement Class Members plus any accrued interest thereon that has not otherwise been
24 distributed pursuant to order of the Court, shall be transmitted as follows: (1) twenty-five percent
25 (25%) will be distributed to the State Treasury for deposit in the Trial Court Improvement and
26 Modernization Fund, established in section 77209 of the Government Code, and subject to
27 appropriation in the annual Budget Act for the Judicial Council to provide grants to trial courts for
28 new or expanded collaborative courts or grants for Sargent Shriver Civil Counsel; and (2) seventy-

1 five percent (75%) will be distributed to the State Treasury for deposit into the Equal Access Fund
2 of the Judicial Branch, to be distributed in accordance with sections 6216 to 6223, inclusive, of the
3 Business and Professions Code, except that administrative costs shall not be paid to the State Bar
4 or the Judicial Council from this sum.

5 b. *FLSA Settlement Class and Opt-In Language.* Each Settlement Class
6 Member's Individual Settlement Payment check will include the following language
7 acknowledging that, by cashing or depositing the Individual Settlement Payment check, that
8 person is opting into the Action for purposes of the FLSA: "By endorsing this check for cash or
9 deposit, I am hereby opting into the FLSA Settlement Class in the action entitled *Granciano, et al.*
10 v. *Southwind Foods, LLC, et al.*, Los Angeles Superior Court Case No. BC538900, and I agree and
11 acknowledge that by doing so the claims that I am releasing will also include any claims that I
12 have under the FLSA (29 U.S.C. §§ 201, *et seq.*) only as to the Released Claims as set forth more
13 fully in the Notice of Settlement." Settlement Class Members who timely cash their Individual
14 Settlement Payments (and, in doing so, become FLSA Settlement Class Members) will be deemed
15 to have opted into the Action for purposes of the FLSA and, as to those FLSA Settlement Class
16 Members, the Released Claims include any claims such FLSA Settlement Class Members may
17 have under the FLSA only as to the Released Claims. Only those Settlement Class Members who
18 timely cash their settlement check will be deemed to have opted into the Action for purposes of
19 the FLSA and thereby released and waived any of their claims under the FLSA only as to the
20 Released Claims.

21 2.22 *Calculation of Individual Settlement Payments.* Individual Settlement
22 Payments to Settlement Class Members will be calculated by the Settlement Administrator as
23 follows: The Settlement Administrator will calculate the Net Settlement Fund and 25% of the
24 LWDA PAGA Allocation. Defendants will calculate the total Compensable Work Weeks for all
25 Class Members and will provide that information to the Settlement Administrator. The respective
26 Compensable Work Weeks for each Class Member, as set forth in the Class List by Defendants,
27 will be divided by the total Compensable Work Weeks for all Class Members, resulting in the
28 Payment Ratio for each Class Member. Each Class Member's Payment Ratio will then be

1 multiplied by the Net Settlement Fund to determine his or her Individual Settlement Payment. This
2 is a “no claims made”, non-reversionary settlement. Thus, to the extent any Class Member validly
3 requests exclusion, the portion of the Net Settlement Fund that would have been paid to the
4 excluded Class Members(s) shall be distributed on an equal, *pro rata* basis among all Settlement
5 Class Members as part of their Individual Settlement Payment. Each Individual Settlement
6 Payment will be reduced by any legally mandated deductions for payroll taxes or other required
7 withholdings. Southwind shall be responsible for payment of any employer-side payroll taxes in
8 addition to Southwind’s payment of its share of the Gross Settlement Fund in the amount of
9 \$623,500. Other than Plaintiffs, Settlement Class Members are not eligible to receive any
10 compensation other than an Individual Settlement Payment, and they may only receive an
11 Individual Settlement Payment if they do not timely and validly request exclusion.

12 2.23 *Class Representative Service Awards.* Defendants agree not to oppose or
13 object to any application or motion by Plaintiffs to be appointed Class Representatives and for a
14 Class Representative Service Award to be paid to each Plaintiff, not to exceed Ten Thousand
15 Dollars (\$10,000.00) each, as consideration for the release of all Released Claims, for the risks
16 undertaken and potential stigma that may attach for filing this lawsuit against their former
17 employer(s), and for their time and effort in bringing and prosecuting this matter for the benefit of
18 Class Members. The Class Representative Service Awards shall be paid to Plaintiffs from the
19 Gross Settlement Fund no later than fourteen (14) calendar days after funding of the Settlement is
20 completed. The Settlement Administrator shall issue an IRS Form 1099–MISC to each Plaintiff
21 for their Class Representative Service Award. Plaintiffs agree to provide the Settlement
22 Administrator with an executed IRS Form W-9 before the Class Representative Service Awards
23 are issued. Plaintiffs shall be solely and legally responsible to pay any and all applicable taxes on
24 their respective Class Representative Service Award and shall hold harmless Defendants from any
25 claim or liability for taxes, penalties or interest arising as a result of the payment of Class
26 Representative Service Awards. The Class Representative Service Awards shall be in addition to
27 each Plaintiff’s Individual Settlement Payment as a Settlement Class Member. In the event that the
28 Court awards less than the requested amount of each Class Representative Service Award, then

1 any portion of the requested amount not awarded to either or both Plaintiffs shall become part of
2 the Net Settlement Fund. In the event the Court reduces or does not approve the requested Class
3 Representative Service Awards, Plaintiffs shall not have the right to revoke their agreement to the
4 Settlement, which shall remain binding on the Parties.

5 2.24 *Class Counsel Fees and Costs.* Defendants agree not to oppose or object to
6 any application or motion by Class Counsel for attorneys' fees not to exceed Two Hundred Forty
7 Nine Thousand Nine Hundred Seventy Five Dollars (\$249,975). Defendants also agree not to
8 oppose or object to any application or motion by Class Counsel for reimbursement of actual costs
9 incurred not to exceed Twenty-Six Thousand Dollars (\$26,000), as supported by declarations from
10 Class Counsel. Class Counsel shall be paid any Court-approved fees and costs no later than
11 fourteen (14) calendar days after the Settlement is fully funded. Class Counsel shall be solely and
12 legally responsible to pay all applicable taxes on the payments made pursuant to this Paragraph.
13 The Settlement Administrator shall issue an IRS Form 1099–MISC to Class Counsel for the
14 payments made pursuant to this Paragraph. This Settlement is not contingent upon the Court
15 awarding Class Counsel any particular amounts in attorneys' fees or costs. In the event the Court
16 reduces or does not approve the requested amounts of Class Counsel Fees and/or Class Counsel
17 Costs, the Settlement shall remain binding on the Parties. Any amounts requested by Class
18 Counsel for Class Counsel Fees and Class Counsel Costs and not granted by the Court shall return
19 to the Net Settlement Fund and be distributed as provided in this Agreement.

20 2.25 *PAGA.* Subject to Court approval, the Parties shall allocate a total of Ten
21 Thousand Dollars (\$10,000) from the Gross Settlement Fund for the compromise of claims under
22 PAGA, Cal. Lab. Code §§ 2698, *et seq.* California Labor Code section 2699(i) requires that the
23 Parties distribute any settlement of PAGA claims as follows: seventy-five percent (75%) to the L
24 WDA for enforcement of labor laws and education of employers; and twenty-five percent (25%)
25 to "aggrieved employees." The Parties, therefore, agree that Seven Thousand Five Hundred
26 Dollars (\$7,500) of the LWDA PAGA Allocation shall be paid to the LWDA from the Gross
27 Settlement Fund by the Settlement Administrator no later than fourteen (14) calendar days after
28 the Settlement is fully funded. The remaining Two Thousand Five Hundred Dollars (\$2,500) of

1 the LWDA PAGA Allocation shall be part of the Net Settlement Fund to be distributed in
2 accordance with the terms of this Stipulation.

3 2.26 *Option to Terminate Settlement.* If, after the Response Deadline and before
4 the Final Approval Hearing, the number of Class Members who submitted timely and valid
5 Requests for Exclusion from the Settlement exceeds five percent (5%) of all potential Settlement
6 Class Members, Defendants shall have, in their respective sole discretion, the option to terminate
7 this Settlement. If Defendants exercise their option to terminate this Settlement, Defendants shall
8 pay all Settlement Administration Costs incurred up to the date of termination.

9 2.27 *Settlement Administration Costs.* The Settlement Administrator shall be
10 paid for the costs of administration of the Settlement from the Gross Settlement Fund. The
11 Settlement Administrator has submitted a bid for services that is capped at \$14,500. No fewer
12 than thirty (30) calendar days prior to the Final Approval Hearing, the Settlement Administrator
13 shall provide the Parties with a statement detailing the costs of administration, showing the
14 estimated Individual Settlement Payments to be made to Settlement Class Members, and listing
15 the names and number of Class Members who have objected to or requested exclusion from the
16 Settlement. The Settlement Administrator, on Defendants' behalf, shall have the authority and
17 obligation to make payments, credits, and disbursements, including payments and credits in the
18 manner set forth herein, to Settlement Class Members calculated in accordance with the
19 methodology set out in this Agreement and orders of the Court. The Parties agree to cooperate in
20 the settlement administration process and to make all reasonable efforts to control and minimize
21 the cost and expenses incurred in administration of the Settlement.

22 2.28 *Settlement Administration.* The Parties each represent they do not have any
23 financial interest in the Settlement Administrator or otherwise have a relationship with the
24 Settlement Administrator that could create a conflict of interest. Plaintiffs' Counsel represents that
25 they have carefully vetted the proposed Settlement Administrator for adherence to reasonable
26 security measures and insurance coverage for cyber theft and losses from errors and omissions.
27 The Settlement Administrator shall be responsible for: processing and mailing payments to the
28 Class Representatives, Class Counsel, and Settlement Class Members; printing and mailing the

1 Notice Packets to Class Members as directed by the Court; receiving and reporting the Requests
2 for Exclusion and Notices of Objection submitted by Class Members; providing a declaration(s) as
3 necessary in support of preliminary and/or final approval of this Settlement; development and
4 maintenance of a Settlement website to post key documents regarding the Settlement and Final
5 Judgment, and other tasks as the Parties mutually agree or the Court orders the Settlement
6 Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of
7 the performance of all Settlement Administrator responsibilities. Any legally-mandated tax
8 reports, tax forms, tax filings or other tax documents required by administration of this Agreement
9 shall be prepared by the Settlement Administrator. Any expenses incurred in connection with such
10 preparation shall be a cost of administration of the Settlement. The Settlement Administrator shall
11 be paid Settlement Administration Costs no later than fourteen (14) calendar days after the
12 Settlement is fully funded.

13 2.29 *Final Approval Hearing.* At a reasonable time following the Response
14 Deadline, the Court shall hold the Final Approval Hearing, where objections, if any, may be heard,
15 and the Court shall determine amounts properly payable for (i) Class Counsel Fees and Costs, (ii)
16 Class Representative Service Awards, (iii) Individual Settlement Payments, (iv) the LWDA
17 PAGA Allocation, and (v) Settlement Administration Costs.

18 2.30 *Entry of Final Judgment.* If the Court approves this Settlement at the Final
19 Approval Hearing, the Parties shall request that the Court enter the Final Judgment after the
20 Settlement has been fully funded, with the Court retaining jurisdiction over the Parties to enforce
21 the terms of the judgment. Notice of entry of Final Judgment will be provided on the Settlement
22 website to be created and maintained by the Settlement Administrator, which the Parties agree will
23 satisfy due process.

24 2.31 *No Effect on Employee Benefits.* Amounts paid to Plaintiffs or other
25 Settlement Class Members pursuant to this Agreement will not count as earnings or compensation
26 for purposes of any benefits (e.g., 401(k) plans or retirement plans) sponsored by Defendants.

27 2.32 *Nullification of Settlement Agreement.* In the event: (i) the Court does not
28 enter the Preliminary Approval Order substantially in the form specified herein; (ii) the Court does

1 not grant final approval of the Settlement as provided herein; (iii) the Court does not enter a Final
2 Judgment as provided herein; or (iv) the Settlement does not become final for any other reason,
3 this Settlement Agreement shall be null and void and any order or judgment entered by the Court
4 in furtherance of this Settlement shall be treated as void from the beginning. In such a case, the
5 Parties and any funds to be awarded under this Settlement shall be returned to their respective
6 statuses as of the date and time immediately prior to the execution of this Agreement, and the
7 Parties shall proceed in all respects as if this Agreement had not been executed, except that any
8 fees already incurred by the Settlement Administrator shall be paid by the Parties in equal shares.
9 In the event an appeal is filed from the Court's Final Judgment, or any other appellate review is
10 sought, administration of the Settlement shall be stayed pending final resolution of the appeal or
11 other appellate review, but any fees incurred by the Settlement Administrator prior to it being
12 notified of the filing of an appeal from the Court's Final Judgment, or any other appellate review,
13 shall be paid to the Settlement Administrator by Defendants within thirty (30) days of said
14 notification.

15 2.33 *No Admission By the Parties.* Defendants deny any and all claims alleged in
16 this Action and deny all wrongdoing whatsoever. This Agreement is not a concession or
17 admission, and shall not be used against Defendants as an admission or indication with respect to
18 any claim of any fault, concession or omission by Defendants.

19 2.34 *Dispute Resolution.* Except as otherwise set forth herein, all disputes
20 concerning the interpretation, calculation or payment of settlement claims, or other disputes
21 regarding compliance with this Agreement shall be resolved as follows:

22 a. If Plaintiffs or Class Counsel, on behalf of Plaintiffs or any
23 Settlement Class Members, or the Defendants at any time believe that another Party has breached
24 or acted contrary to the Agreement, that Party shall notify the other Parties in writing of the
25 alleged violation.

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

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

4 d. If Class Counsel and Defendants are unable to resolve their
5 differences after twenty (20) days, either Party may file an appropriate motion for enforcement
6 with the Court.

7 2.35 *Exhibits and Headings.* The terms of this Agreement include the terms set
8 forth in any attached exhibit, which are incorporated by this reference as though fully set forth
9 herein. Any exhibits to this Agreement are an integral part of the Settlement. The descriptive
10 headings of any paragraphs or sections of this Agreement are inserted for convenience of reference
11 only and do not constitute a part of this Agreement.

12 2.36 *Interim Stay of Proceedings.* The Parties agree to make all efforts to obtain
13 a stay of all proceedings in the Action, except such proceedings necessary to implement and
14 complete the Settlement such as the filing of a stipulation for leave to file a TAC adding a
15 proposed FLSA claim for proposed release under the Settlement terms, in abeyance pending the
16 Final Approval Hearing to be conducted by the Court.

17 2.37 *Amendment or Modification.* This Agreement may be amended or modified
18 only by a written instrument signed by counsel for all Parties or their successors-in-interest.

19 2.38 *Entire Agreement.* This Agreement and any attached exhibits constitute the
20 entire Agreement among the Parties, and no oral or written representations, warranties or
21 inducements have been made to any Party concerning this Agreement or its exhibits other than the
22 representations, warranties, and covenants contained and memorialized in the Agreement and its
23 exhibits.

24 2.39 *Authorization to Enter into Settlement Agreement.* Counsel for all Parties
25 warrant and represent they are expressly authorized by the Parties whom they represent to
26 negotiate this Agreement and to take all appropriate actions required or permitted to be taken by
27 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
28 documents required to effectuate the terms of this Agreement. The Parties and their counsel will

1 cooperate with each other and use their best efforts to effect the implementation of the Settlement.
2 In the event the Parties are unable to reach agreement on the form or content of any document
3 needed to implement the Settlement, or on any supplemental provisions that may become
4 necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the
5 Court to resolve such disagreement. The persons signing this Agreement on behalf of Defendants
6 represent and warrant that they are authorized to sign this Agreement on behalf of Defendants.
7 Plaintiffs represent and warrant that they are authorized to sign this Agreement and that they have
8 not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

9 2.40 *Binding on Successors and Assigns.* This Agreement shall be binding upon,
10 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

11 2.41 *California Law Governs.* All terms of this Agreement and the exhibits
12 hereto shall be governed by and interpreted according to the laws of the State of California.

13 2.42 *This Settlement is Fair, Adequate, and Reasonable.* The Parties believe this
14 Settlement is a fair, adequate, and reasonable settlement of this Action and have arrived at this
15 Settlement after extensive arm's-length negotiations, taking into account all relevant factors,
16 present and potential.

17 2.43 *Jurisdiction of the Court.* The Parties agree that the Court shall retain
18 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this
19 Agreement and all orders and judgments entered in connection therewith, and the Parties and their
20 counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing,
21 and enforcing the Settlement embodied in this Agreement and all orders and judgments entered in
22 connection therewith.

23 2.44 *Invalidity of Any Provision.* Before declaring any provision of this
24 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest
25 extent possible consistent with applicable precedents, so as to find all provisions of this
26 Agreement valid and enforceable.

27 2.45 *Waiver of Certain Appeals.* The Parties agree to waive appeals and to
28 stipulate to class certification for purposes of this Settlement only.

1 2.46 *Cooperation.* The Parties agree to cooperate fully with one another to
2 accomplish and implement the terms of this Settlement. Such cooperation shall include, but not be
3 limited to, execution of such other documents and the taking of such other action as may be
4 reasonably necessary to fulfill the terms of this Settlement. The Parties to this Settlement shall use
5 their best efforts, including all efforts contemplated by this Settlement and any other efforts that
6 may become necessary by Court order, or otherwise, to effectuate this Settlement and the terms set
7 forth herein.

8 a. Extension of Five Year Trial Deadline: To this end, the Parties
9 hereby stipulate to extend the five year statutory deadline to bring the case to trial under California
10 Code of Civil Procedure section 583.310 by one year. With the one year extension, the deadline to
11 bring the case to trial is March 11, 2020.

12 2.47 *Confidentiality of Settlement.* The Parties and their respective counsel (and
13 all employees thereof) expressly agree that they will maintain in strict confidence the fact that this
14 Action has settled, and the terms of the Settlement, until such time as Preliminary Approval is
15 granted by the Court (if granted). The Parties recognize that aspects of this Settlement will be on
16 file with the Court. However, except for information or documents disclosed to the Court as part
17 of preliminary approval of the Settlement, the Parties will not disclose or initiate the disclosure of
18 this Settlement or its terms until such time as Preliminary Approval is granted.

19 2.48 *Notices.* Unless otherwise specifically provided, all notices, demands or
20 other communications in connection with this Stipulation shall be: (1) in writing; (2) deemed
21 given on the third business day after mailing; and (3) sent via United States registered or certified
22 mail, return receipt requested, addressed as follows:

23 **To Plaintiffs:**

24 Raymond P. Boucher
25 Shehnaz M. Bhujwala
26 Neil M. Larsen
27 Boucher, LLP
28 21600 Oxnard Street, Suite 600
 Woodland Hills, California 91367

1 Sahag Majarian, II
2 Law Offices of Sahag Majarian, II
3 18250 Ventura Blvd.
4 Tarzana, CA 91356

5 **To Defendants:**

6 John L. Barber, Esq.
7 Alison M. Miceli, Esq.
8 Lewis Brisbois Bisgaard & Smith LLP
9 701 B Street, Suite 1900
10 San Diego, CA 92101
11 *Attorneys for Southwind Foods, LLC*

12 Rob D. Cucher, State Bar Number 219726
13 LAW OFFICES OF ROB CUCHER
14 315 South Beverly Drive, Suite 310
15 Beverly Hills, California 90212
16 *Attorneys for Defendant and Cross-Defendant Staffpoint, LLC*

17 Lawrence Hoodack, State Bar Number 97629
18 LAW OFFICES OF LAWRENCE HOODACK
19 P.O. Box 28514
20 Anaheim, California 92809
21 Telephone: 714-634-2030
22 *Attorney for Defendant and Cross-Defendant Alliance Professional Business
23 Solutions, Inc.*

24 Carl John Pentis, State Bar Number 116453
25 CARL JOHN PENTIS, ATTORNEY AT LAW
26 500 N State College Blvd, Suite 1200
27 Orange, California 92868
28 *Attorney for Cross-Defendant Ashwin Syal*

29 2.49 *Execution by Settlement Class Members.* It is agreed that it is impossible or
30 impractical to have each Class Member execute this Settlement Agreement. The Notice of
31 Settlement will advise all Settlement Class Members of the binding nature of the releases and such
32 shall have the same force and effect as if each Settlement Class Member executed this Stipulation.

33 2.50 *Execution by Plaintiffs.* Plaintiffs, by signing this Stipulation, are each
34 bound by the terms herein and further agree not to request to be excluded from the Settlement.
35 Any such request for exclusion shall therefore be void and of no force or effect.

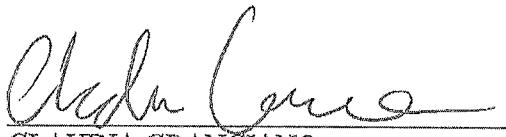
36 2.51 The Parties hereto agree that the terms and conditions of this Amended
37 Stipulation are the result of lengthy, intensive, arm's-length negotiations between the Parties and
38 that this Stipulation shall not be construed in favor of or against any of the Parties by reason of

1 their participation in the drafting of this Stipulation.

2 2.52 This Stipulation shall become effective upon its execution by all of the
3 undersigned. Plaintiffs, Class Counsel, Defendants, and Defendants' Counsel and Cross-
4 Defendants' Counsel may execute this Stipulation in counterparts, and the execution of
5 counterparts shall have the same force and effect as if each had signed the same instrument.
6 Copies of the executed Agreement shall be effective for all purposes as though the signatures
7 contained therein were original signatures.

8

9 DATED: 5-16-18

10 By: 
11 CLAUDIA GRANCIANO
Plaintiff

12

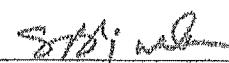
13 DATED: _____

14 By: _____
15 RICARDO CONTRERAS
Plaintiff

16

17 DATED: May 16, 2018

18 BOUCHER LLP

19 By: 
20 RAYMOND P. BOUCHER
21 SHEHNAZ M. BHUJWALA
NEIL M. LARSEN

22 Attorneys for Plaintiffs and the Putative Class

23

24 DATED: _____

25 LAW OFFICES OF SAHAG MAJARIAN II

26 By: _____
27 SAHAG MAJARIAN II

28 Attorneys for Plaintiffs and the Putative Class

1 their participation in the drafting of this Stipulation.

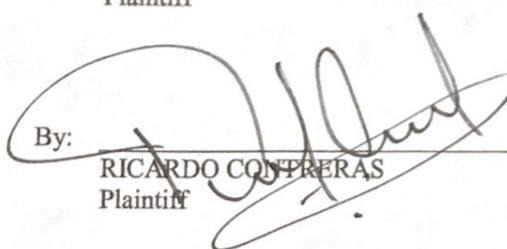
2 2.52 This Stipulation shall become effective upon its execution by all of the
3 undersigned. Plaintiffs, Class Counsel, Defendants, and Defendants' Counsel and Cross-
4 Defendants' Counsel may execute this Stipulation in counterparts, and the execution of
5 counterparts shall have the same force and effect as if each had signed the same instrument.
6 Copies of the executed Agreement shall be effective for all purposes as though the signatures
7 contained therein were original signatures.

8

9
10 DATED: 5/23/18

By:

CLAUDIA GRANCIANO
Plaintiff



11
12
13 DATED: 5/23/18

By:

RICARDO CONTRERAS
Plaintiff

14
15
16
17 DATED: May 16, 2018

BOUCHER LLP

18
19 By:

RAYMOND P. BOUCHER
SHEHNAZ M. BHUJWALA
NEIL M. LARSEN

20
21
22 Attorneys for Plaintiffs and the Putative Class

23
24 DATED: _____

LAW OFFICES OF SAHAG MAJARIAN II

25
26 By:

SAHAG MAJARIAN II

27
28

Attorneys for Plaintiffs and the Putative Class

1 their participation in the drafting of this Stipulation.

2 2.52 This Stipulation shall become effective upon its execution by all of the
3 undersigned. Plaintiffs, Class Counsel, Defendants, and Defendants' Counsel and Cross-
4 Defendants' Counsel may execute this Stipulation in counterparts, and the execution of
5 counterparts shall have the same force and effect as if each had signed the same instrument.
6 Copies of the executed Agreement shall be effective for all purposes as though the signatures
7 contained therein were original signatures.

8

9

10 DATED: _____

By: _____
11 CLAUDIA GRANCIANO
Plaintiff

12

13 DATED: _____

By: _____
14 RICARDO CONTRERAS
Plaintiff

15

16

17 DATED: May 16, 2018

BOUCHER LLP

18

19 By: S. Boucher
20 RAYMOND P. BOUCHER
21 SHEHNAZ M. BHUJWALA
NEIL M. LARSEN

22 Attorneys for Plaintiffs and the Putative Class

23

24 DATED: 5/18/18

LAW OFFICES OF SAHAG MAJARIAN II

25

26 By: Sahag Majarian
27 SAHAG MAJARIAN II

28 Attorneys for Plaintiffs and the Putative Class

1
2 DATED: 5-30-18

3
4 By: 
For Defendant Southwind Foods, LLC

5
6 DATED: 05/30/18

7
8 LEWIS BRISBOIS BISGAARD & SMITH LLP
9

10
11 By: 
12 JOHN L. BARBER
13 ALISON M. MICELI
14

15 Attorneys for Defendant and Cross-Complainant
16 Southwind Foods, LLC
17
18
19
20
21
22
23
24
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26
27
28

1
2 DATED: May 29, 2018

3
4 By: Rob Cucher
For Defendant and Cross-Defendant
Staffpoint, LLC

5
6 DATED: May 29, 2018

7
8 LAW OFFICES OF ROB D. CUCHER

9
10 By: Rob Cucher
11 ROB D. CUCHER

12
13 Attorneys for Defendant and Cross-Defendant
14 Staffpoint, LLC

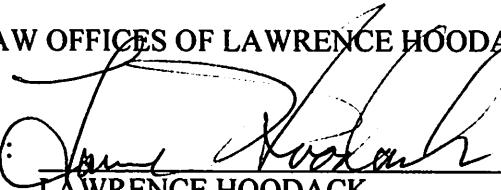
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5 DATED: 5/31/18

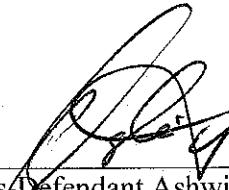
6
7 By: _____
8 For Defendant and Cross-Defendant
9 Alliance Professional Business Solutions, Inc.

10
11 LAW OFFICES OF LAWRENCE HOODACK
12

13 By: 
14 LAWRENCE HOODACK

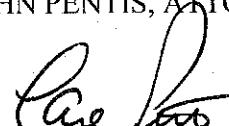
15 Attorneys for Defendant and Cross-Defendant
16 Alliance Professional Business Solutions, Inc.

1
2 DATED: 5/30/18

By: 
Cross-Defendant Ashwin Syal

4
5 DATED: 5/30/18

6
7
8 CARM JOHN PENTIS, ATTORNEY AT LAW
9

10 By: 
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CARL JOHN PENTIS

Attorneys for Cross-Defendant Ashwin Syal

EXHIBIT 2(A)

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Claudia Granciano, et al. v. Southwind Foods, LLC, et al.
Superior Court of the State of California, County of Los Angeles
Case No. BC538900

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS. **PLEASE READ THIS NOTICE CAREFULLY.**

*A court authorized this Notice. This is not a solicitation.
This is not a lawsuit against you, and you are not being sued.
However, your legal rights are affected whether you act or not.*

WHAT IS IN THIS NOTICE

1.	Why should you read this Notice?	Page 1
2.	What is the Lawsuit about?	Page 2
3.	The proposed Settlement.....	Page 3
4.	What do I have to do in response to this Notice?	Page 6
5.	How will my rights be affected?	Page 7
6.	Who are the attorneys representing the Parties?	Page 9
7.	How do I obtain additional information?	Page 9

1. Why should you read this Notice?

You received this Notice because your employment records with Southwind Foods, LLC (“Southwind”), Staffpoint, LLC (“Staffpoint”), and/or Alliance Professional Business Solutions, Inc. (“Alliance”) (collectively, “Defendants”) indicate that you are eligible to receive a settlement payment as a “Class Member” under the proposed Settlement in the lawsuit entitled *Granciano, et al. v. Southwind Foods, LLC, et al.*, which is pending before the Superior Court of the State of California, County of Los Angeles, Case No. BC538900 (the “Lawsuit”).

Because your rights may be affected by the proposed Settlement whether you act or not, it is important that you carefully read this Notice.

The Court in this Lawsuit ordered that this Notice be mailed to all Class Members to notify you of the proposed Settlement. This Notice does not express any opinion by the Court regarding the merits of any claims or defenses asserted by any party in the Lawsuit. Instead, this Notice was sent to you to inform you that this Lawsuit is pending and of the terms of the proposed Settlement, so that you may make appropriate decisions. In the event that this Notice conflicts with the Settlement Agreement, the terms of the Settlement Agreement shall govern.

The proposed Settlement will apply to all persons who meet the definition of the following Class:

All current and former non-exempt employees employed by Southwind Foods, LLC, Staffpoint, LLC, and/or Alliance Professional Business Solutions, Inc. who worked in any of Southwind Foods, LLC's facilities located in California at any time from March 11, 2010 through May 1, 2016 (the "Class Period").

According to Defendants' employment records, you are a member of the Class ("Class Member") because you are or were employed by one or more of the Defendants as a non-exempt employee who worked in one or more of Southwind Foods, LLC's facilities located in California sometime between March 11, 2010 and May 1, 2016. Again, as a Class Member, you are eligible to receive a settlement payment under the proposed Settlement.

Plaintiffs Claudia Granciano and Ricardo Contreras ("Plaintiffs") and Defendants, together with Cross-Defendants including Cross-Defendant Ashwin Syal, have presented this Settlement to the Court for its review and approval. On [Date of Preliminary Approval Order], the Court ordered that this Notice be provided to Class Members.

The Court will decide whether to provide final approval to the Settlement at a hearing currently scheduled for _____ at ___ a.m/p.m., in **Department 14 of the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse, which is located at 312 North Spring Street, Los Angeles, California 90012**, before the Honorable Kenneth R. Freeman (the "Final Approval Hearing"). The Final Approval Hearing may be continued to another date. If that happens, the Settlement Administrator will post information about the new date and time on the Settlement website at [settlement website address]. Notice of final approval and judgment will also be posted to the Settlement website at [settlement website address].

2. What is the Lawsuit about?

The Lawsuit is a putative class and representative action, meaning a lawsuit where the claims and rights of many people are decided in a single court proceeding. In this case, there are two named plaintiffs, Ms. Claudia Granciano and Mr. Ricardo Contreras ("Plaintiffs"). Plaintiff Granciano, individually and on behalf of all other similarly situated employees, filed a wage and hour class action lawsuit against Southwind Foods, LLC and Staffpoint, LLC, on March 11, 2014 in the Superior Court of California, County of Los Angeles. On May 21, 2015, Plaintiff Granciano filed a First Amended Complaint to add Alliance Professional Business Solutions, Inc. as an additional Defendant. On July 8, 2015, Plaintiff Granciano filed a Second Amended Complaint to add Mr. Contreras as an additional Plaintiff and to seek relief pursuant to the California Private Attorneys General Act of 2004 ("PAGA") (Cal. Lab. Code §§ 2698, *et seq.*).

The Lawsuit alleges that Defendants (1) failed to pay wages for all hours worked (Cal. Lab. Code § 1194), (2) failed to pay overtime compensation (Cal. Lab. Code § 510), (3) failed to provide meal periods (Cal. Lab. Code §§ 226.7 and 512), (4) failed to furnish complete and

accurate wage statements (Cal. Lab. Code § 226), (5) failed to timely pay wages upon termination or resignation (Cal. Lab. Code §§ 201 and 202), (6) violated the PAGA (Cal. Lab. Code §§ 2698, *et seq.*), and (7) violated California’s Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*).

As part of the Preliminary Approval process, Plaintiffs shall amend the operative Complaint to add a cause of action for unpaid wages pursuant to the Fair Labor Standards Act (“FLSA”) and file it with the Court. Defendants will stipulate for leave to file the Third Amended Complaint. In the event that the Settlement does not become final for any reason, then any Order permitting the filing of the Third Amended Complaint shall be treated by the Parties as void *ab initio* and the Second Amended Complaint will become Plaintiffs’ operative Complaint again.

Defendants deny these allegations and contend they complied with the law. Despite the Parties’ respective positions and arguments, the Parties recognize the uncertainty and risks of further litigation of the Lawsuit, which would be protracted and expensive for the Parties. Accordingly, the Parties have agreed to settle the Lawsuit, subject to Court approval, upon the terms set forth in the Amended Stipulation Regarding Class Action Settlement and Release (the “Stipulation” or “Settlement” or “Agreement” or “Settlement Agreement”). The settlement is a compromise. Defendants, by settling the Lawsuit, do not admit, concede or imply any fault, wrongdoing or liability. Defendants will object to any claim if for any reason the Court does not approve the Settlement.

3. The proposed Settlement.

In exchange for the release of claims and cross-claims against Defendants and final judgment in the Lawsuit, Defendants agreed to pay up to Seven Hundred Fifty Thousand Dollars (\$750,000) (“Gross Settlement Fund”), exclusive of Defendants’ employer-side payroll tax obligations that will be paid separately by Southwind Foods, LLC. The contributions shall be made as follows: \$623,500 by Southwind Foods, LLC, \$50,000 by Travelers Casualty and Surety Company of America on behalf of Southwind Foods, LLC, \$50,000 by Alliance Professional Business Solutions, Inc., \$25,000 by Ashwin Syal, and \$1,500 by Staffpoint, LLC.

After payment of Class Representative Service Awards to Plaintiffs, a PAGA payment to the California Labor and Workforce Development Agency (“LWDA”), Settlement Administration Costs, and Class Counsel attorneys’ fees and costs are deducted from the Gross Settlement Fund, remaining funds will be distributed to Class Members who do not submit a valid and timely Request for Exclusion from the Settlement (“Settlement Class Members”), as further explained below:

- A. **Plaintiffs’ Class Representative Service Awards.** Class Counsel will ask the Court to authorize Service Awards of up to Ten Thousand Dollars (\$10,000) each to Plaintiffs for their service as Class Representatives. Plaintiffs will also be entitled to receive Individual Settlement Payments from the Net Settlement Fund as described below.

- B. **PAGA Payment.** Ten Thousand Dollars (\$10,000) will be paid to settle claims alleged under PAGA. Of that amount, Seven Thousand Five Hundred Dollars (\$7,500), will be paid to the LWDA for its 75% share of the PAGA payment, and Two Thousand Five Hundred Dollars (\$2,500) will be distributed equally to Settlement Class Members, including Plaintiffs.
- C. **Settlement Administration Costs.** The Settlement Administrator, Simpluris, Inc., will be paid for administering the proposed Settlement, which includes such tasks such as mailing and tracking this Notice, establishing and maintaining the Settlement website, calculating Class Member settlement payments, receiving and reviewing Requests for Exclusion and Objections, mailing checks and tax forms, and reporting to the Parties and the Court. Settlement Administration Costs are capped and will not exceed Fourteen Thousand Five Hundred Dollars (\$14,500).
- D. **Class Counsel Attorneys' Fees and Costs.** You do not need to pay any portion of either Plaintiffs' or Defendants' attorneys' fees and costs. Plaintiffs will ask the Court to award 33.33% of the Gross Settlement Fund to Class Counsel for their attorneys' fees for work performed in prosecuting this class and representative action, which is Two Hundred Forty-Nine Thousand Nine Hundred Seventy-Five Dollars (\$249,975), and for a Cost Award for actual expenses and costs incurred by Class Counsel in prosecuting this action not to exceed Twenty-Six Thousand Dollars (\$26,000).
- E. **Net Settlement Fund.** The amounts described in Subparts A – D, above, will be paid from the Gross Settlement Fund, and any requested amounts not approved by the Court will revert to the Net Settlement Fund for distribution to "Settlement Class Members" who do not validly and timely request exclusion from the Settlement. Subject to Court approval, distribution to Settlement Class Members will be as follows:

Individual Settlement Payments to Settlement Class Members. The Settlement Administrator will determine the portion of the Net Settlement Fund and portion of the PAGA payment to be paid to each Settlement Class Member. Individual Settlement Payments will be calculated as follows:

By dividing the number of Compensable Work Weeks for each Class Member during the Class Period by the total number of Compensable Work Weeks for all Class Members during the Class Period ("Payment Ratio"). A work week is defined as a fixed and regularly recurring period seven consecutive 24-hour periods totaling 168 hours. Here, the term "Work Weeks" simply means the number of such work weeks in which you worked for Defendants at facilities in California during the Class Period, according to Defendants' payroll records. Each Settlement Class Member who does not validly and timely submit a Request for Exclusion will receive a Settlement Payment that includes a sum consisting of the Payment Ratio multiplied by the Net Settlement Fund, minus all applicable taxes except employer-side payroll taxes to be paid by

Southwind Foods, LLC. If any Class Member validly requests exclusion from the Settlement, the portion of the Net Settlement Fund that would have been paid to the excluded Class Members(s) will be distributed to all Settlement Class Members on an equal, *pro rata* basis as part of their Individual Settlement Payment, after deduction of applicable taxes or other required withholdings.

According to Defendants' payroll records, you worked for one or more of the Defendants as a non-exempt employee at one or more of Southwind Foods, LLC's facilities in California sometime between March 11, 2010 and May 1, 2016. The number of your Work Weeks during the Class Period is _____.

If you dispute the information provided regarding the number of Compensable Work Weeks you worked for Defendants in California during the Class Period, then you must notify the Settlement Administrator and specify that you are challenging the number of Compensable Work Weeks and provide supporting documentation and/or an explanation to show contrary employment dates. The Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment shall be binding upon the Class Member and the Parties.

Your estimated Individual Settlement Payment, if you decide to participate in the Settlement, and do not submit a valid and timely Request for Exclusion, is \$ _____, less all applicable taxes. This estimated amount may increase or decrease depending on the Court's Orders and the number of Class Members who timely submit valid Requests for Exclusion from the Settlement.

Individual Settlement Payments will be allocated as follows: forty percent (40%) as penalties; forty percent (40%) as interest; and twenty percent (20%) as wages. Each Class Member should seek his or her own personal tax advice prior to acting in response to this Notice.

The check for your Individual Settlement Payment will be mailed by U.S. Mail to your last known mailing address within thirty (30) days after the Effective Date of the Settlement and will remain valid and negotiable for 180 days from the date of issuance. After that time, any unclaimed check will be sent to the California Department of Industrial Relations Unclaimed Wages Fund for your benefit.

4. What do I have to do in response to this Notice?

You do not need to submit a claim form or do anything else to participate in this Settlement and receive your share of the Net Settlement Fund. You also have a right to request to be excluded from the Settlement completely, and the right to object to the Settlement. The option you choose affects whether you receive an Individual Settlement Payment and whether you give up certain rights. The option you choose will in no way affect your employment with Defendants.

Your options are listed below:

- A. **Participate in the Settlement**. To participate in this Settlement and receive your Individual Settlement Payment, you do not need to do anything at this time.
- B. **Participate in the Settlement But Dispute Individual Settlement Payment Information**. If you dispute the information provided in Section 3, above, which will be used to calculate your Individual Settlement Payment, then you must notify the Settlement Administrator and specify that you are challenging the number of Compensable Work Weeks and provide supporting documentation and/or an explanation to show contrary employment dates. Please retain proof of mailing, fax or email correspondence with the Settlement Administrator, or call the Settlement Administrator to make sure your dispute was received.
- C. **Exclude yourself from the Settlement**. To exclude yourself from participating in the Settlement, you must sign and return a written Request for Exclusion to the Settlement Administrator either (1) by First Class or certified U.S. Mail postmarked no later than **[Response Deadline]**, or (2) by facsimile to **[Fax number]** no later than **[Response Deadline]**, or (3) submit a Request for Exclusion by email, **[settlement email address]**, no later than **[Response Deadline]**. To be valid, a Request for Exclusion must: (1) contain the complete name, address, telephone number, and last four digits of the Social Security number of the Class Member requesting exclusion; (2) be signed and dated by the Class Member requesting exclusion; and (3) be postmarked, faxed or email stamped by the **[Response Deadline]** and returned to the Settlement Administrator at the specified address, fax telephone number or email address.

If you timely and validly request to be excluded from the Settlement, you will not receive an Individual Settlement Payment under the Settlement, you will not be bound by the Settlement, and you will not have any right to object to or appeal the Settlement.

Unless a Class Member timely requests to be excluded from the Settlement, the Class Member will be bound by the judgment upon final approval of the Settlement, including the releases described in this Notice.

D. **Object to the Settlement**. You can ask the Court to deny final approval of the Settlement by filing an objection. You cannot ask the Court to order a larger Settlement or to change the terms of the Settlement. The Court can only approve or deny the proposed Settlement. If the Court denies final approval of the Settlement, no Individual Settlement Payments will be sent out and the Lawsuit will continue. If that is what you want to happen, you must object.

If you wish to object to the proposed Settlement (or any portion of it), you must mail, fax or email a written statement of objection ("Notice of Objection") to the Settlement Administrator by the **[Response Deadline]**.

To be valid, a Notice of Objection must be submitted to the Settlement Administrator on or before **[Response Deadline]**, must be signed by the Class Member, and must contain: (1) the full name, address, and telephone number of the Class Member objecting to the Settlement; (2) the dates of employment of the Class Member; (3) the job title(s) and job location(s) of the Class Member; (4) the last four digits of the Class Member's Social Security number; (5) the basis for the objection; and (6) whether the Settlement Class Member intends to appear at the Final Approval Hearing, and provide any legal briefs, papers or memoranda the objecting Class Member proposes to submit to the Court. The date of the postmark on the return envelope, or fax date or email date shall be deemed the exclusive means for determining whether a Notice of Objection was timely submitted. Class Members who fail to make objections in the manner specified above shall be deemed to have waived any written objections to the Settlement.

You do not need to appear at the Final Approval Hearing in order to have your objection considered. The Final Approval Hearing is currently scheduled for _____ at ____ a.m./p.m., in **Department 14 of the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse, which is located at 312 North Spring Street, Los Angeles, California 90012**, before the Honorable Kenneth R. Freeman. You may appear at the Final Approval Hearing either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

You may both object to the Settlement and participate in it. Filing an objection will not exclude you from the Settlement. If you wish to be excluded from the Settlement, then you must follow the procedure above in Section C.

5. How will my rights be affected?

If the proposed Settlement is approved by the Court, Plaintiffs and every member of the Class who does not submit a valid and timely Request for Exclusion to the Settlement Administrator

under the procedures set forth above will release Defendants¹ from the “Released Claims” as described in the Settlement Agreement, which include any and all claims asserted in the Action against the Released Parties, or that could have been asserted against the Released Parties based upon the facts alleged in the Third Amended Complaint filed with the Court, by Plaintiffs or any Settlement Class Member, under the California Labor Code, California Wage Orders, California Unfair Competition Law, PAGA, and FLSA, from March 11, 2010 through May 1, 2016.

The Released Claims include, but are not limited to, claims for: (1) Failure to Pay Wages for All Hours Worked (Cal. Lab. Code § 1194) due to Defendants’ alleged time-rounding policies resulting in alleged underpayment of wages for regular and/or overtime hours worked by Plaintiff Granciano and Class Members; (2) Failure to Pay Overtime Compensation (Cal. Lab. Code § 510) due to Defendants’ alleged rounding policies applicable to Plaintiff Granciano and Class Members and auto-deductions of 30 minutes of total time worked and alleged attributions of that time to meal periods without pay; (3) Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7 and 512) for Defendants’ alleged failure to provide timely requisite meal periods of not less than 30 minutes to Plaintiff Granciano and Class Members who worked over five hours per shift and who worked over ten hours per shift, or to pay premium payments in lieu thereof; (4) Failure to Timely Pay Wages Upon Termination or Resignation (Cal. Lab. Code §§ 201 and 202) to Plaintiff Granciano and Class Members; (5) Failure to Furnish Accurate Wage Statements (Cal. Lab. Code § 226(a)) to Plaintiffs and Class Members (from March 11, 2013 through May 1, 2016); (6) Unlawful, Deceptive, and/or Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*) for the alleged violations set forth herein; and (7) PAGA (Cal. Lab. Code §§ 2698, *et seq.*) for the alleged violations set forth herein.

The Released Claims also include all claims for interest and/or penalties of any kind or nature arising out of or relating to the Released Claims and further extends to and includes claims for damages, civil penalties, restitution, injunctive relief, declaratory relief, and any other form of relief or remedy.

The Released Claims also include all claims Plaintiffs and Settlement Class Members may have against the Released Parties relating to (i) the payment and allocation of attorneys’ fees and costs to Class Counsel pursuant to this Agreement, and (ii) the payment of the Class Representative Service Awards pursuant to this Agreement. It is the intent of the Parties that the judgment entered by the Court upon final approval of the Settlement shall have *res judicata* effect and be final and binding upon Plaintiffs and all Settlement Class Members regarding all of the Released Claims.

FLSA Release: Additionally, any Settlement Class Member who timely cashes his or her Individual Settlement Payment check, including either of the Plaintiffs, will thereby be deemed to have opted into the action for purposes of the FLSA claim asserted in the Third Amended Complaint under 29 U.S.C. §§ 201, *et seq.*, and waived and released any claims

¹ The term “Defendants” include each and all of the Defendants that are Parties to the Settlement Agreement and their respective past and present parents, subsidiaries, affiliated companies and corporations, and each and all of their respective past and present directors, officers, and owners.

such Settlement Class Members may have under the FLSA only as related to the Released Claims.

Released Claims and FLSA Release Do Not Include Civil Code Section 1542 General Release for Settlement Class Members: For the sake of clarity, the Parties agree that the Released Claims, including the FLSA Release, consist of only those claims that meet the definition of Released Claims. **In other words, the releases contemplated by Settlement Class Members are not considered blanket waivers of California Civil Code section 1542 for all claims, potential or actual, known or unknown, for violations of California's Labor Code, Wage Orders or FLSA by current and former employees of Defendants.**

As of the Effective Date, the Settlement Class Members, including Plaintiffs, on behalf of themselves and their respective heirs, successors, assigns, and estates, release the Released Parties from the Released Claims during the Class Period. Plaintiffs and Settlement Class Members agree not to sue or otherwise make a claim against any of the Released Parties for the Released Claims.

6. Who are the attorneys representing the Parties?

Attorneys for Plaintiffs and the Class Members:

Raymond P. Boucher, Esq.
Shehnaz M. Bhujwala, Esq.
Neil M. Larsen, Esq.
BOUCHER LLP
21600 Oxnard Street, Suite 600
Woodland Hills, CA 91367
Tel: 818-340-5400; Fax: 818-340-5401

and

Sahag Majarian II, Esq.
LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
Tarzana, CA 91356-4229
Tel: 818-609-0807; Fax: 818-609-0892

Class Counsel

Attorneys for Defendant Southwind Foods, LLC:

John L. Barber, Esq.
Alison M. Miceli, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
701 B Street, Suite 1900
San Diego, California 92101

Attorney for Defendant and Cross-Defendant Staffpoint, LLC:

Rob D. Cucher, Esq.
LAW OFFICES OF ROB CUCHER
315 South Beverly Drive, Suite 310
Beverly Hills, California 90212

Attorney for Defendant and Cross-Defendant Alliance Professional Business Solutions, Inc.:

Lawrence Hoodack, Esq.
LAW OFFICES OF LAWRENCE HOODACK
P.O. Box 28514
Anaheim, California 92809

Attorney for Cross-Defendant Ashwin Syal:

Carl John Pentis, Esq.

CARL JOHN PENTIS, ATTORNEY AT LAW
500 N State College Blvd, Suite 1200
Orange, California 92868

7. How do I obtain additional information?

This Notice only summarizes the Lawsuit, the Settlement, and related matters. For more information, you may inspect the relevant Court files on the Settlement website at [*settlement website address*]. You may also contact the Settlement Administrator and ask about this Settlement:

SOUTHWIND FOODS, LLC Settlement Administrator
c/o Simpluris, Inc.
[ADDRESS]
[Settlement Website Address]
[Toll-Free Number]

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT. PLEASE DO NOT CONTACT DEFENDANTS' CORPORATE OFFICES, MANAGERS OR ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT.

Dated: _____

EXHIBIT 3

1 Raymond P. Boucher, State Bar No. 115364
ray@boucher.la
2 Shehnaz M. Bhujwala, State Bar No. 223484
bhujwala@boucher.la
3 BOUCHER LLP
21600 Oxnard Street, Suite 600
4 Woodland Hills, California 91367-4903
Tel: (818) 340-5400
5 Fax: (818) 340-5401

6 Sahag Majarian II, State Bar No. 146621
sahagii@aol.com

sangita@dot.com
7 LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
8 Tarzana, California 91356
Tel: (818) 609-0807
9 Fax: (818) 609-0892

10 | Attorneys for Plaintiffs and the Putative Class

11 [Additional Counsel of Record Listed on Next
Page]
12

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL ~~CIVIL WEST~~ DISTRICT

15 CLAUDIA GRANCIANO, individually and
on behalf of all others similarly situated,

Case No. BC538900

CLASS ACTION

**AMENDED STIPULATION REGARDING
CLASS ACTION SETTLEMENT AND
RELEASE**

*Assigned for All Purposes to:
Hon. Kenneth R. Freeman, Dept. 14310*

Action Filed: March 11, 2014
Trial Date: None

19 SOUTHWIND FOODS, LLC, a California
20 limited liability company; STAFFPOINT,
LLC, a California limited liability company;
and DOES 1 through 50, inclusive.

Defendants.

1 JOHN L. BARBER, State Bar Number 160317
john.barber@lewisbrisbois.com
2 ALISON M. MICELI, State Bar Number 243131
alison.miceli@lewisbrisbois.com
3 LEWIS BRISBOIS BISGAARD & SMITH LLP
701 B Street~~650 Town Center Drive~~, Suite 19400
4 San DiegoCosta Mesa, California 92101-6226
Telephone: 714-619-233545-10069200
5 Facsimile: 714-619-233850-86274030

6 *Attorneys for Defendant and Cross-Complainant*
SOUTHWIND FOODS, LLC

7 Rob D. Cucher, State Bar Number 219726
cucherlaw@msn.com
8 LAW OFFICES OF ROB CUCHER
9 315 South Beverly Drive, Suite 310
Beverly Hills, California 90212
10 Telephone: 310-795-5356

11 *Attorney for Defendant and Cross-Defendant*
STAFFPOINT, LLC

12 Lawrence Hoodack, State Bar Number 97629
hoodack4@hotmail.com
13 LAW OFFICES OF LAWRENCE HOODACK
14 P.O. Box 28514
Anaheim, California 92809
15 Telephone: 714-634-2030

16 *Attorney for Defendant and Cross-Defendant*
ALLIANCE PROFESSIONAL BUSINESS SOLUTIONS, INC.

17 Carl John Pentis, State Bar Number 116453
carlpentis@gmail.com
18 CARL JOHN PENTIS, ATTORNEY AT LAW
19 500 N State College Blvd, Suite 1200
Orange, California 92868
20 Telephone: 714-385-9682
Facsimile: 714-385-9685

21 *Attorney for Cross-Defendant ASHWIN SYAL*

AMENDED STIPULATION REGARDING
CLASS ACTION SETTLEMENT AND RELEASE

3 Plaintiffs Claudia Granciano (“Granciano”) and Ricardo Contreras (“Contreras”)
4 (collectively, “Plaintiffs”), individually and on behalf of themselves and the Settlementputative
5 Eclass, and Defendant/Cross-Complainant Southwind Foods, LLC (“Southwind”),
6 Defendant/Cross-Defendant Staffpoint, LLC (“Staffpoint”), Defendant/Cross-Defendant Alliance
7 Professional Business Solutions, Inc. (“Alliance”), and Cross-Defendant Ashwin Syal (“Syal”)
8 (collectively, the “Parties”) hereby stipulate to the settlement and release of the claims asserted by
9 Plaintiffs and the Settlementputative Eclass against Defendants, and cross-claims by Southwind
10 Foods against Cross-Defendants, in the matter entitled *Granciano, et al. v. Southwind Foods, LLC,*
11 *et al.*, Los Angeles Superior Court Case No. BC538900, pursuant to the terms and conditions of
12 this Amended Stipulation and Regarding Class Action Settlement and Release of Class Action set
13 forth below, subject to the approval of the Court.

RECITALS

15 WHEREAS, on March 11, 2014, Granciano filed a putative eClass & Action eComplaint
16 against Southwind and Staffpoint in the Superior Court of California, County of Los Angeles,
17 alleging claims for (1) Failure to Pay Wages for All Hours Worked (Cal. Lab. Code § 1194); (2)
18 Failure to Timely Pay Wages Upon Termination or Resignation (Cal. Lab. Code §§ 201 and 202);
19 (3) Failure to Furnish Accurate Wage Statements (Cal. Lab. Code § 226(a)); and (4) Unlawful,
20 Deceptive, and/or Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*);

WHEREAS, on August 28, 2014, Staffpoint filed its Notice of Appearance;

22 WHEREAS, on November 4, 2014, Southwind filed its Answer to the Class Action
23 Complaint;

WHEREAS, on May 21, 2015, Granciano filed a First Amended Class Action Complaint (“FAC”) with leave of Court, which alleged two additional causes of action following certain discovery; namely, Failure to Pay Overtime Compensation (Cal. Lab. Code § 510) and Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7 and 512), named Doe Defendant 1 as Alliance Professional Business Solutions, Inc., and corrected a typographical error in the proposed class

1 definition;

2 WHEREAS, on June 19, 2015, Southwind filed its Answer to the ~~First Amended~~
3 ~~Complaint~~, and also filed a Cross-Complaint against Staffpoint, Alliance, and Syal for alleged
4 breach of contract, contractual indemnity, equitable indemnity, comparative indemnity and
5 contribution, declaratory relief, promissory fraud, and negligent misrepresentation;

6 WHEREAS, on July 8, 2015, Granciano filed a Second Amended Class Action Complaint
7 ("SAC") with leave of Court, adding Contreras as an additional ~~named~~-Plaintiff who, like
8 Granciano, seeks relief for alleged violations of California Labor Code section 226(a), but also
9 seeks relief pursuant to the -California Private Attorneys General Act of 2004 ("PAGA") (Cal.
10 Lab. Code §§ 2698, *et seq.*) on behalf of himself and other aggrieved employees;

11 WHEREAS, on August 7, 2015, Southwind answered the ~~Second Amended Complaint~~;

12 WHEREAS, on August 11, 2015, Staffpoint answered the ~~Second Amended Complaint~~;

13 WHEREAS, on September 17, 2015, Alliance answered the ~~Second Amended Complaint~~;

14 WHEREAS, on February 8, 2016, the Court overruled the demurrer to Southwind's Cross-
15 Complaint by Alliance and Syal;

16 WHEREAS, the Parties have exchanged certain documents, information, data, calculations
17 and analyses relating to the claims and defenses in the operative Complaint and Cross-Complaint
18 through formal and informal discovery;

19 WHEREAS, on February 25, 2016, the Parties participated in an all-day mediation before
20 the Honorable Judge Carl J. West (Ret.) of JAMS in Los Angeles, an experienced and well-known
21 class action mediator, and reached an agreement on the materials terms of a proposed settlement of
22 claims and cross claims;

23 WHEREAS, between the time of mediation to approximately July, 2017, the ~~p~~Parties have
24 addressed a significant issue with Defendants' record-keeping in order to verify and augment the
25 proposed Class List, which included substantial efforts by counsel for the Parties to resolve with
26 guidance from the Court, and Plaintiffs' counsel's advancement of substantial litigation costs to
27 Southwind and Alliance each for data processing work needed to complete the Class List and
28 maintain key, favorable features of the terms of the proposed settlement (e.g., notice by U.S. Mail,

1 opt-out settlement not requiring claims process, etc.);

2 WHEREAS, Defendants deny Plaintiffs' allegations of wrongdoing, fault or liability,
3 contend the claims in the operative Complaint lack merit, would have continued to resist
4 vigorously Plaintiffs' claims and contentions, and would have continued to assert their defenses
5 thereto had this Stipulation not been reached; and have entered into this Stipulation to put the
6 claims to rest finally and forever solely for the purpose of avoiding prolonged and expensive
7 litigation, without acknowledging any fault, wrongdoing or liability; and

8 WHEREAS, Plaintiffs and their counsel ~~of record~~ believe that the claims asserted in the
9 operative Complaint are meritorious, but they have considered and weighed the issues involved in
10 establishing the validity of their claims and have concluded that, in light of the uncertainty of the
11 outcome as well as the substantial risks and inevitable delay in proceeding to trial, compared to the
12 benefits being provided hereby, the terms and conditions set forth herein are fair and reasonable
13 and should be submitted to the Court for approval.

14 NOW, THEREFORE, without any admission or concession on the part of Plaintiffs or
15 Cross-Complainants of any lack of merit of the Action, and without any admission or concession
16 on the part of Defendants or Cross-Defendants of any liability or wrongdoing or lack of merit in
17 the defenses, IT IS HEREBY STIPULATED AND AGREED, by and among the Parties to this
18 Stipulation, through their respective counsel/attorneys of record in the Action, subject to the
19 approval of the Court, in consideration of the benefits flowing to the Parties hereto from the
20 Settlement, that all Released Claims as against the Released Parties shall be compromised, settled,
21 released, and judgment entered, upon and subject to the following terms and conditions:

22 **1. DEFINITIONS**

23 The following capitalized terms shall have the following meanings unless otherwise
24 defined herein:

25 1.1 "Action" means *Granciano, et al. v. Southwind Foods, LLC, et al.*, Los
26 Angeles Superior Court Case No. BC538900, which is currently pending before the Honorable
27 Kenneth R. Freeman in the Superior Court of the State of California, County of Los Angeles.

28 1.2 "Agreement," "Settlement Agreement," "Settlement" or "Stipulation"

1 means this Amended Stipulation Regarding Class Action Settlement and Release.

2 1.3 “Class Counsel” and “Plaintiffs’ Counsel” mean and refer to, collectively,
3 Raymond P. Boucher, Esq., Shehnaz M. Bhujwala, Esq., and Neil M. Larsen, Esq. of Boucher
4 LLP, and Sahag Majarian, II., Esq. of the Law Offices of Sahag Majarian, II.

5 1.4 “Class Counsel Fees” mean the amount of attorneys’ fees authorized by the
6 Court to be paid to Class Counsel for the services they have rendered in prosecuting this Action.

7 Class Counsel Fees are not to exceed Two Hundred Forty Nine Thousand Nine Hundred and
8 Seventy Five Dollars (\$249,975). Class Counsel Fees shall be paid from the Gross Settlement
9 Fund. Any portion of the requested Class Counsel Fees that is not awarded to Class Counsel shall
10 be part of the Net Settlement Fund and -distributed to Settlement Class Members as provided in
11 this Agreement.

12 1.5 “Class Counsel Costs” mean the amount authorized by the Court to be paid
13 to Class Counsel for expenses and costs incurred by Class Counsel in prosecuting this Action.

14 Class Counsel Costs are not to exceed Twenty-Six Thousand Dollars (\$26,000). Class Counsel
15 Costs shall be paid from the Gross Settlement Fund. Any portion of the requested Class Counsel
16 Costs that is not awarded to Class Counsel shall be part of the Net Settlement Fund and distributed
17 to Settlement Class Members as provided in this Agreement.

18 1.6 “Class” and “Class Members” mean all current and former non-exempt
19 employees employed by Southwind Foods, LLC, Staffpoint, LLC, and/or Alliance Professional
20 Business Solutions, Inc. who worked in any of Southwind Foods, LLC’s facilities located in
21 California at any time during the Class Period (March 11, 2010 through May 1, 2016). Defendants
22 estimated as of January 2018 there are approximately 907 Class Members, including Plaintiffs.

23 1.7 “Class List” or “Class Information” means a list of Class Members that
24 Defendants in good faith will compile from their records and provide to the Settlement
25 Administrator. The Class List shall be in a computer-readable format, such as a Microsoft Excel
26 spreadsheet, and shall include each Class Member’s full name, last known mailing address, last
27 known telephone number, start date(s) of employment, end date(s) of employment, total
28 Compensable Work Weeks, and Social Security numbers to the extent available from Defendants’

1 records. The Class list shall also include the sum total of all Compensable Work Weeks for the
2 Class Members, which Defendants represented at mediation to be approximately 41,000 based on
3 a partial Class List. Because Social Security numbers are included in the Class List, the Settlement
4 Administrator will maintain the Class List in confidence, and access shall be limited to those with
5 a need to use the Class List as part of the administration of the Settlement.

6 1.8 “Class Period” means the period from March 11, 2010 through May 1,
7 2016.

8 1.9 “Class Representatives” mean Claudia Granciano and Ricardo Contreras in
9 their capacity as representatives of the Class.

10 1.10 “Class Representative Service Awards” mean the amounts that the Court
11 authorizes to be paid to each of the Plaintiffs if appointed as Class Representatives, not to exceed
12 Ten Thousand Dollars (\$10,000) each, in addition to their Individual Settlement Payments, in
13 recognition of their efforts made and risks incurred in assisting with the prosecution of the Action
14 on behalf of Class Members, and as consideration for executing this Agreement and general
15 release of their claims against Defendants.

16 1.11 “Compensable Work Weeks” mean the number of weeks worked by Class
17 Members during the Class Period according to Defendants’ records. A workweek, ~~which~~ is
18 defined as a fixed and regularly recurring period consisting of seven consecutive 24-hour periods
19 totaling 168 hours.

20 1.12 “Court” means the Superior Court of the State of California, County of Los
21 Angeles.

22 1.13 “Cross-Defendants” mean Staffpoint, LLC, Alliance Professional Business
23 Solutions, Inc., and Ashwin Syal.

24 1.14 “Defendants” mean Southwind Foods, LLC, Staffpoint, LLC, and Alliance
25 Professional Business Solutions, Inc.

26 1.15 “Defendants/Cross-Defendants” mean Southwind Foods, LLC, Staffpoint,
27 LLC, Alliance Professional Business Solutions, Inc., and Ashwin Syal.

28 1.16 “Effective Date” means the later of one day after: (a) if no Class Member

1 timely files a valid Objection to the Settlement, the date on which the Court grants final approval
2 of the Settlement; or (b) if a Class Member timely files a valid Objection to the Settlement but
3 does not timely initiate an appeal, the date on which the time period expires for appeals by Class
4 Members who timely submitted a valid Objection to the Settlement, from any Order ruling on any
5 objections to the Settlement or granting final approval of the Settlement; or (c) if a Class Member
6 timely files a valid Objection to the Settlement and timely initiates an appeal from any Order
7 ruling on any objections to the Settlement or granting final approval of the Settlement, the
8 resolution of any such appeal.

9 1.17 “Estimated Individual Settlement Payment” means the estimated amount
10 payable to each Settlement Class Member who does not submit a valid and timely Request for
11 Exclusion, as calculated pursuant to Paragraph 2.22 herein and assuming, for purposes of the
12 calculation, that the Net Settlement Fund equals \$4326,025 and that no Class Member submits a
13 valid and timely Request for Exclusion.

14 1.18 “Final Approval Hearing” means the hearing at which the Court considers
15 whether to finally approve the Settlement and to enter the Final Judgment.

16 1.19 “Final Approval Order” means the Court’s order granting final approval of
17 the Settlement. The Parties will submit a proposed Final Approval Order to the Court in a form to
18 be agreed upon by the Parties prior to the Final Approval Hearing.

19 1.20 “Final Judgment” means the Court’s order of final judgment in this Action
20 following the Court’s entry of the Final Approval Order. The Parties will submit a proposed Final
21 Judgment to the Court in a form to be agreed upon by the Parties prior to the Final Approval
22 Hearing.

23 1.21 “FLSA Settlement Class Members” mean, and refer to, a Settlement Class
24 Member who timely cashes his or her Individual Settlement Payment check, and thereby will be
25 deemed to have opted into the action for purposes of the Fair Labor Standards Act (29 U.S.C. §§
26 201, *et seq.*) (“FLSA”), and thereby waived and released any claims such FLSA-Settlement Class
27 Members may have under the FLSA only as related to the Released Claims.

28 1.22 “LWDA PAGA Allocation” means the amount payable from the Gross

Commented [MA1]: Class Counsel Costs should be included in this figure.

Commented [SB2R1]: Calculation: \$750,000 GSF – \$249,975 Fees - \$ 26,000 costs - \$20,000 total for service awards - \$ 14,500 Settlement Administration Costs - \$7,500 LWDA payment = \$432,025 NSF

1 Settlement Fund to the State of California's Labor and Workforce Development Agency and the
2 Settlement Class, or \$10,000, as further specified in Paragraph 2.25 herein.

3 1.23 "Gross Settlement Fund" or "GSF" means Defendants/Cross-Defendants'
4 total funding obligation under this Stipulation, exclusive of Defendants' payroll tax obligations,
5 which shall be paid separately by Southwind in addition to the GSF. The GSF is \$750,000. The
6 GSF shall be paid as follows: \$623,500 by Southwind, \$50,000 by Travelers Casualty and Surety
7 Company of America on behalf of Southwind, \$50,000 by Alliance, \$25,000 by Syal, and \$1,500
8 by Staffpoint.

9 1.24 "Individual Settlement Payment" means the amount payable from the Net
10 Settlement Fund to each Settlement Class Member who does not timely submit a Request for
11 Exclusion from the Settlement.

12 1.25 "Net Settlement Fund" means the Gross Settlement Fund, less Class
13 Counsel Fees, Class Counsel Costs, Class Representative Service Awards, Settlement
14 Administration Costs, and the LWDA PAGA Allocation portion paid to the LWDA. Assuming
15 all requested fees, costs, and awards are granted as requested, the Parties estimate this amount to
16 be \$432,025.

17 1.26 "Notice of Settlement" means the Notice of Proposed Class Action
18 Settlement (substantially in the form attached hereto as Exhibit "A").

19 1.27 "Notice Packet" means the Notice of Proposed Class Action Settlement and
20 self-addressed, stamped envelope for return to the Settlement Administrator (substantially in the
21 form attached hereto as Exhibit A).

22 1.28 "Parties" mean Plaintiffs and Defendants/Cross-Defendants; and "Party"
23 shall mean either Plaintiffs or Defendants/Cross-Defendants, individually.

24 1.29 "Payment Ratio" means the respective Compensable Work Weeks for each
25 Class Member divided by the total Compensable Work Weeks for all Class Members.

26 1.30 "Plaintiffs" mean Plaintiffs Claudia Granciano and Ricardo Contreras.

27 1.31 "Plaintiffs' Released Claims" mean all Released Claims as defined herein
28 plus the Egeneral Release described in Paragraph 2.11.

Commented [MA3]: Class Counsel Costs should be included in this figure.

Commented [SB4R3]: Calculation: \$750,000 GSF - \$249,975 Fees - \$ 26,000 costs - \$20,000 total for service awards - \$ 14,500 Settlement Administration Costs - \$7,500 LWDA payment = \$432,025 NSF

1 1.32 “Preliminary Approval” or “Preliminary Approval Date” means the date the
2 Court enters the Preliminary Approval Order.

3 1.33 “Preliminary Approval Order” means the Proposed Order.

4 1.34 “Released Claims” mean any and all claims asserted in the Action against
5 the Released DefendantsParties, or that could have been asserted against the Released Defendants
6 Parties based upon the facts alleged in the Third Amended Class Action Complaint to be filed with
7 the Court, by Plaintiffs or any Settlement Class Member, under the California Labor Code,
8 California Wage Orders, California Unfair Competition Law, PAGA, and FLSA, from March 11,
9 2010 through May 1, 2016.

10 a. The Released Claims include, but are not limited to, claims for: (1)
11 Failure to Pay Wages for All Hours Worked (Cal. Lab. Code § 1194) due to Defendants’ alleged
12 time-rounding policies resulting in alleged underpayment of wages for regular and/or overtime
13 hours worked by Plaintiff Granciano and Class Members; (2) Failure to Pay Overtime
14 Compensation (Cal. Lab. Code § 510) due to Defendants’ alleged rounding policies applicable to
15 Plaintiff Granciano and Class Members and auto-deductions of 30 minutes of total time worked
16 and alleged attributions of that time to meal periods without pay; (3) Failure to Provide Meal
17 Periods (Cal. Lab. Code §§ 226.7 and 512) for Defendants’ alleged failure to provide timely
18 requisite meal periods of not less than 30 minutes to Plaintiff Granciano and Class Members who
19 worked over five hours per shift and who worked over ten hours per shift, or to pay premium
20 payments in lieu thereof; (4) Failure to Timely Pay Wages Upon Termination or Resignation (Cal.
21 Lab. Code §§ 201 and 202) to Plaintiff Granciano and Class Members; (5) Failure to Furnish
22 Accurate Wage Statements (Cal. Lab. Code § 226(a)) to Plaintiffs and Class Members (from
23 March 11, 2013 through May 1, 2016); (6) Unlawful, Deceptive, and/or Unfair Business Practices
24 (Cal. Bus. & Prof. Code §§ 17200, *et seq.*) for the alleged violations set forth herein; and (7)
25 PAGA (Cal. Lab. Code §§ 2698, *et seq.*) for the alleged violations set forth herein. The Released
26 Claims also include all claims for interest and/or penalties of any kind or nature arising out of or
27 relating to the Released Claims and further extends to and includes claims for damages, civil
28 penalties, restitution, injunctive relief, declaratory relief, punitive damages, and any other form of

1 relief or remedy.

2 b. The Released Claims also include all claims Plaintiffs and
3 Settlement Class Members may have against the Released ~~Defendants~~Parties relating to (i) the
4 payment and allocation of attorneys' fees and costs to Class Counsel pursuant to this Agreement,
5 and (ii) the payment of the Class Representative Service Awards pursuant to this Agreement. It is
6 the intent of the Parties that the judgment entered by the Court upon final approval of the
7 Settlement shall have *res judicata* effect and be final and binding upon Plaintiffs and all
8 Settlement Class Members regarding all of the Released Claims.

9 c. **FLSA Release:** Additionally, any Settlement Class Member who
10 timely cashes his or her Individual Settlement Payment check, including either of the Plaintiffs,
11 will thereby be deemed to have opted into the action for purposes of the FLSA claim asserted in
12 the TAC under 29 U.S.C. §§ 201, et seq., and waived and released any claims such FLSA
13 Settlement Class Members may have under the FLSA only as related to the Released Claims.

14 d. **Released Claims and FLSA Release Do Not Include Civil Code**

15 **Section 1542 General Release for Settlement Class Members:** For the sake of clarity, the
16 Parties agree that the Released Claims, including the FLSA Release, include~~consist of~~ only those
17 claims that meet the definition of Released Claims. As such, for example, Released Claims do not
18 include claims for wrongful termination, unlawful harassment or Workers' Compensation. Nor
19 does~~In other words, this~~ releases contemplated by Plaintiffs and Settlement Class Members
20 are not considered~~titute a blanket waivers of California Civil Code section 1542 for~~all
21 claims, potential or actual, known or unknown, for violations of California's Labor Code,

22 **Wage Orders or FLSA by current and former employees of Defendants.**

23 1.35 “Released Cross-Claims” mean any and all claims asserted by Southwind
24 against Cross-Defendants in the Action, or that could have been asserted against Cross-Defendants
25 in the Action, based upon the facts alleged in the operative Cross-Complaint.

26 1.36 “Released Cross-Defendants” mean Cross-Defendants on behalf of
27 themselves, their parents, subsidiaries, agents, affiliates, directors, officers, and owners.

28 1.37 “Released Defendants” mean Defendants on behalf of themselves, their

1 parents, subsidiaries, agents, affiliates, directors, officers, and owners. "Released Parties" mean
2 Released Defendants and all Cross-Defendants, including Cross-Defendant Ashwin Syal, their
3 parents, subsidiaries, agents, affiliates, directors, officers, and owners.

4 1.38 "Request for Exclusion" means the Request for Exclusion from the
5 Settlement as outlined in the procedure set forth in Paragraph 2.17 below.

6 1.39 "Response Deadline" means the date sixty (60) days after the Settlement
7 Administrator mails Notice Packets to Class Members and the last date on which Class Members:
8 (a) may postmark, fax or email Requests for Exclusion; (b) or file and serve Objections to the
9 Settlement.

10 1.40 "Settlement" means disposition of the Action pursuant to this Agreement.

11 1.41 "Settlement Administration Costs" mean the amount to be paid to the
12 Settlement Administrator from the Gross Settlement Fund for the administration of the Settlement.

13 1.42 "Settlement Administrator" means Simpluris, Inc.

14 1.43 "Settlement Class Members" or "Settlement Class" means all Class
15 Members who do not opt out of the Settlement by timely submitting a Request for Exclusion.

16 1.44 "Settlement Fund Account" means the bank account established pursuant to
17 the terms of this Stipulation from which all monies payable under the terms of this Settlement
18 shall be paid, as set forth herein.

19 **2. TERMS OF AGREEMENT**

20 2.1 *Class Certification.* The Parties stipulate and agree to the conditional
21 certification of this Action and all claims asserted in the operative Complaint pursuant to
22 California Code of Civil Procedure section 382 for purposes of this Settlement only. Should the
23 Settlement not become final and effective as herein provided, class certification pursuant to this
24 Settlement shall be set aside (subject to further proceedings on the motion of any pParty to certify
25 or deny certification thereafter). The Parties' willingness to stipulate to class certification as part
26 of the Settlement shall have no bearing on, and shall not be admissible in or considered in
27 connection with, the issue of whether a class should be certified in a non-settlement context in this
28 Action and shall have no bearing on, and shall not be admissible or considered in connection with,

1 the issue of whether a class should be certified in any other lawsuit.

2 2.2 *Amendment of Class Action Operative Complaint.* As part of the Preliminary
3 Approval process, Plaintiffs shall amend the operative Complaint to add a cause of action for
4 unpaid wages pursuant to the FLSA and file it with the Court. Defendants will stipulate for leave
5 to file the Third Amended Class Action Complaint as set forth in this Paragraph. In the event that
6 the Settlement does not become final for any reason, then any Order permitting the filing of the
7 Third Amended Class Action Complaint shall be treated by the Parties as void *ab initio* and the
8 Second Amended Class Action Complaint will become the Plaintiffs' operative Complaint again.

9 2.3 *Jurisdiction.* The Parties agree that the Superior Court of California for
10 County of Los Angeles has jurisdiction over the Action, and also that venue is proper in that
11 Court.

12 2.4 *Benefits of Settlement to Settlement Class Members.* Plaintiffs and Class
13 Counsel recognize the expense and length of continued proceedings necessary to litigate their
14 disputes through trial and through any possible appeals. Plaintiffs have also taken into account the
15 uncertainty and risk of the outcome of further litigation, and the difficulties and delays inherent in
16 such litigation. Plaintiffs and Class Counsel are also aware of the burdens of proof necessary to
17 establish liability for the claims asserted in the Action, both generally and in response to
18 Defendants' defenses thereto (many of which have been shared at the mediation), and potential
19 difficulties in establishing damages for the Settlement Class Members. Plaintiffs and Class
20 Counsel have also taken into account Defendants' agreement to enter into a settlement that confers
21 substantial relief upon Settlement Class Members, as well as their stated financial conditions. This
22 is an opt-out Settlement with no claims process and no reversion of settlement funds to
23 Defendants. Based on the foregoing, Plaintiffs and Class Counsel have determined that the
24 Settlement set forth in this Agreement is a fair, adequate, and reasonable settlement, and is in the
25 best interests of the Settlement Class Members.

26 2.5 *Defendants' Reasons for Settlement.* Defendants have concluded that any
27 further defense of this litigation would be protracted and expensive for all Parties. Substantial
28 amounts of time, energy, and resources of Defendants have been and, unless this Settlement is

1 made, will continue to be devoted to the defense of the claims asserted by Plaintiffs and Class
2 Members. Defendants have also taken into account the risks of further litigation in reaching their
3 decision to enter into this Settlement. Despite continuing to contend that they are not liable for any
4 of the claims set forth by Plaintiffs in the Action, Defendants have, nonetheless, agreed to settle in
5 the manner and upon the terms set forth in this Agreement to put to rest the claims as set forth in
6 the Action.

7 2.6 *Class Members' Claims.* Class Members, by and through Plaintiffs, have
8 claimed and continue to claim that the Released Claims, including claims under the FLSA, have
9 merit and give rise to liability on the part of Defendants. This Agreement is a compromise of
10 disputed claims. Nothing contained in this Agreement and no documents referred to herein and no
11 action taken to carry out this Agreement may be construed or used as an admission by or against
12 the Class Members or Class Counsel as to the merits or lack thereof of the claims asserted.

13 2.7 *Defendants' and Cross-Defendants' Defenses.* Defendants have claimed
14 and continue to claim that the Released Claims, including the proposed claims under the FLSA,
15 have no merit and do not give rise to liability. Likewise, Cross-Defendants have claimed and
16 continue to claim that the Released Cross-Claims have no merit and do not give rise to liability.
17 This Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no
18 documents referred to herein and no action taken to carry out this Agreement may be construed or
19 used as an admission by or against Defendants or Cross-Defendants as to the merits or lack thereof
20 of the claims or cross-claims asserted.

21 2.8 *Maximum Amount Payable by Defendants.* Under the terms of this
22 Settlement, the maximum amount payable by Defendants shall not exceed the Gross Settlement
23 Fund of Seven Hundred ~~and~~-Fifty Thousand Dollars (\$750,000), exclusive of Defendants'
24 employer-side payroll tax obligations that shall be paid separately by Southwind in addition to the
25 Gross Settlement Fund.

26 2.9 *Class Size.* Defendants represented as of January 2018 that there are
27 approximately 907 Class Members.

28 2.10 *Release as to All Settlement Class Members.* As of the Effective Date, the

1 Settlement Class Members, including Plaintiffs, on behalf of themselves and their respective heirs,
2 successors, assigns, and estates, release the Released Parties from the Released Claims during
3 the Class Period. ~~Plaintiffs and Settlement Class Members may hereafter discover facts in addition
4 to or different from those they now know or believe to be true with respect to the subject matter of
5 the Released Claims, but upon the Effective Date, shall be deemed to have, and by operation of the
6 Final Judgment shall have, fully, finally, and forever settled and released any and all of the
7 Released Claims, whether known or unknown, suspected or unsuspected, contingent or non-
8 contingent, which now exist, or heretofore have existed, upon any theory of law or equity now
9 existing or coming into existence in the future.~~ Plaintiffs and Settlement Class Members agree not
10 to sue or otherwise make a claim against any of the Released Parties for the Released Claims.

11 2.11 *General Release by Plaintiffs Only.* In addition to the releases made by
12 Settlement Class Members, Plaintiffs, on behalf of themselves, their heirs, successors, assigns, and
13 estates, in exchange for the terms and conditions of this Agreement, including the Service Awards
14 requested or as otherwise authorized by the Court, shall also, as of the Effective Date, fully and
15 forever release the Released Parties from ~~the~~ Plaintiffs' Released Claims. With respect to ~~the~~
16 Plaintiffs' Released Claims only, Plaintiffs shall be deemed to have, and by operation of the Final
17 Judgment shall have, expressly waived and relinquished, to the fullest extent permitted by law, the
18 provisions, rights, and benefits of section 1542 of the California Civil Code, or any other similar
19 provision under federal or state law, which section provides:

20 A general release does not extend to claims which the creditor does not know or
21 suspect to exist in his or her favor at the time of executing the release, which if
22 known by him or her must have materially affected his or her settlement with the
23 debtor.

24 Plaintiffs may hereafter discover facts in addition to or different from those they now know
25 or believe to be true with respect to the subject matter of the Plaintiffs' Released Claims, but upon
26 the Effective Date, shall be deemed to have, and by operation of the Final Judgment shall have,
27 fully, finally, and forever settled and released any and all of ~~the~~ Plaintiffs' Released Claims,
28 whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now

1 exist, or heretofore have existed, upon any theory of law or equity now existing or coming into
2 existence in the future, including, but not limited to, conduct that is negligent, intentional, with or
3 without malice or a breach of any duty, law or rule, without regard to the subsequent discovery or
4 existence of such different or additional facts. Plaintiffs agree not to sue or otherwise make a claim
5 against any of the Released Parties for ~~the~~-Plaintiffs' Released Claims.

6 2.12 *Release by Southwind of Cross-Claims.* Southwind shall release ~~the~~
7 Released Cross-Defendants from the Released Cross-Claims in exchange for Cross-Defendants'
8 contributions towards the GSF and shall dismiss with prejudice the Cross-Complaint within seven
9 (7) days of ~~the~~-Released Cross-Defendants' respective payments to the Settlement Administrator
10 of their respective shares of the GSF (if payments are made on different dates, then the seven day
11 period runs from the last date on which any Released Cross-Defendant makes its his payment).

12 2.13 *Tax Liability.* The Parties make no representations as to the tax treatment or
13 legal effect of the payments called for hereunder, and Plaintiffs~~s~~ and Settlement Class Members are
14 not relying on any statement or representation by the Parties in this regard. Plaintiffs and
15 Settlement Class Members understand and agree that they will be responsible for the payment of
16 any employee-side taxes and penalties assessed on the payments described herein and will hold the
17 Parties free and harmless from and against any claims resulting from treatment of such payments
18 as non-taxable damages, including the treatment of such payments as not subject to withholding or
19 deduction for payroll and employment taxes.

20 2.14 *No Knowledge Of Other Claims.* Class Counsel and Plaintiffs agree and
21 represent that they are not aware of any claim that could have been brought against Defendants by
22 any person or entity, other than the claims that were alleged in the Action, or could have been
23 alleged based on the facts alleged in the Action.

24 2.15 *Settlement Approval and Implementation Procedures.* As part of this
25 Settlement, the Parties agree to the following procedures for obtaining the Court's preliminary
26 approval of the Settlement, certifying a class for settlement purposes only, notifying Class
27 Members of the Settlement, obtaining the Court's final approval of the Settlement, and processing
28 ~~the~~-Individual Settlement Payments and other payments described herein.

1 a. *Preliminary Approval and Certification.* Plaintiffs' will endeavor to
2 submit by September 15, 2017 this Agreement to the Court for preliminary approval. Such
3 submission for Preliminary Approval will include this Agreement, the proposed Notice Packet,
4 attached hereto as Exhibit A, the proposed Preliminary Approval Order, and any motions,
5 memoranda, and evidence as may be necessary for the Court to determine that this Agreement is
6 fair, adequate, and reasonable. Plaintiffs will request the Court to enter an order preliminarily
7 approving the terms of the Agreement and the certification of a provisional settlement Eclass, and
8 requesting a Final Approval Hearing, in accordance with California law. Plaintiffs will provide
9 Defendants a reasonable opportunity to review and provide comments to Plaintiffs regarding the
10 briefing in support of thePlaintiffs' preliminary approval application (at least two days prior to
11 filing).

12 b. *Class Information.* No more than fifteen (15) calendar days after the
13 entry of the Preliminary Approval Order, Defendants shall provide the Settlement Administrator
14 with the Class Information for purposes of mailing Notice Packets to Class Members.

15 c. *Notice By First Class U.S. Mail.* Upon receipt of the Class
16 Information, the Settlement Administrator will perform a search on the National Change of
17 Address database to update the Class Members' addresses. No more than fourteen (14) calendar
18 days after receiving the Class Information from Defendants as provided herein, the Settlement
19 Administrator shall mail copies of the Notice Packet to all Class Members by regular First Class
20 U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current
21 mailing address for each Class Member. The address identified by the Settlement Administrator as
22 the current mailing address shall be presumed to be the best mailing address for each Class
23 Member. It will be conclusively presumed that, if an envelope so mailed has not been returned
24 within thirty (30) days of the mailing, the Class Member received the Notice Packet.

25 d. *Undeliverable Notices.* Any Notice Packets returned to the
26 Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed
27 to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement
28 Administrator shall make reasonable efforts to obtain an updated mailing address within five (5)

1 business days of the date of the return of the Notice Packet. If an updated mailing address is
2 identified, the Settlement Administrator shall resend the Notice Packet to the Class Member. Class
3 Members to whom Notice Packets are re-sent after having been returned undeliverable to the
4 Settlement Administrator shall have fourteen (14) calendar days thereafter or until the Response
5 Deadline has expired, whichever is later, to mail, fax or email the Request for Exclusion, or mail,
6 fax or email a Notice of Objection. Notice Packets that are resent shall inform the recipient of this
7 adjusted deadline. If a Class Member's Notice Packet is returned to the Settlement Administrator
8 more than once as non-deliverable, then an additional Notice Packet shall not be re-mailed.

9 e. Compliance with the procedures specified in Paragraph 2.15(a)-(e)
10 herein shall constitute due and sufficient notice to Class Members of this Settlement and shall
11 satisfy the requirement of due process. Nothing else shall be required of, or done by, the Parties,
12 Class Counsel, and Defendants' counsel to provide notice of the proposed Settlement.

13 2.16 *Disputes Over Compensable Work Weeks.* Class Members will have the
14 opportunity, should they disagree with Defendants' records regarding the number of respective
15 Compensable Work Weeks worked by a Class Member, as set forth in the Notice of Settlement, to
16 provide documentation and/or an explanation to show contrary employment dates. If there is a
17 dispute, the Settlement Administrator will consult with the Parties to determine whether an
18 adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the
19 amounts of, any Individual Settlement Payments under the terms of this Agreement. The
20 Settlement Administrator's determination of the eligibility for and amount of any Individual
21 Settlement Payment shall be binding upon the Class Member and the Parties.

22 2.17 *Exclusions (Opt-Outs).* The Notice Packet shall state that Class Members
23 who wish to exclude themselves from the Settlement must submit a written Request for Exclusion
24 by the Response Deadline. The Request for Exclusion: (1) must contain the name, address,
25 telephone number, and last four digits of the Social Security number of the person requesting
26 exclusion; (2) must be signed and dated by the Class Member; and (3) must be postmarked, faxed
27 or email stamped by the Response Deadline and returned to the Settlement Administrator at the
28 specified address, fax telephone number or email address. If the Request for Exclusion does not

1 contain the information listed in (1)-(2), it will not be deemed valid for exclusion from this
2 Settlement, except a Request for Exclusion form not containing a Class Member's telephone
3 number and/or last four digits of their Social Security number will be deemed valid. The date of
4 ~~the~~-postmark on the Request for Exclusion, either based on the date on the return mailing
5 envelope, date of the fax stamp or date of email transmission, shall be the exclusive means used to
6 determine whether a Request for Exclusion has been timely submitted. Any Class Member who
7 requests to be excluded from the Settlement Class will not be entitled to any recovery under the
8 Settlement and will not be bound by the terms of the Settlement or have any right to object, appeal
9 or comment thereon. Class Members who receive a Notice Packet but fail to submit a valid and
10 timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of
11 the Settlement and any Final Judgment entered in this Action if the Settlement is approved by the
12 Court. No later than fourteen (14) calendar days after the Response Deadline, the Settlement
13 Administrator shall provide counsel for the Parties with a complete list of all members of the Class
14 who have timely submitted Requests for Exclusion. At no time shall any of the Parties or their
15 counsel seek to solicit or otherwise encourage any Class Member to submit a Requests for
16 Exclusion from the Settlement.

17 2.18 *Objections.* The Notice Packet shall state that Class Members who wish to
18 object to the Settlement must mail a written statement of objection ("Notice of Objection") to the
19 Settlement Administrator by the Response Deadline. The date of ~~the~~-postmark on the return
20 envelope, ~~or~~ fax date or email date shall be deemed the exclusive means for determining
21 ~~that~~whether a Notice of Objection was timely submitted. The Notice of Objection must be signed
22 by the Class Member and state: (1) the full name, address, and telephone number of the Class
23 Member; (2) the dates of employment of the Class Member; (3) the job title(s) and job location(s)
24 of the Class Member; (4) the last four digits of the Class Member's¹ Social Security number; (5)
25 the basis for the objection; and (6) whether the Settlement Class Member intends to appear at the
26 Final Approval Hearing, and provide any legal briefs, papers or memoranda the objecting Class
27 Member proposes to submit to the Court. Class Members who fail to make objections in the
28 manner specified above shall be deemed to have waived any written objections ~~and shall be~~

1 foreclosed from making any objections (whether by appeal or otherwise) to the Settlement. No
2 later than fourteen calendar (14) days after the Response Deadline, the Settlement Administrator
3 shall provide counsel for the Parties with complete copies of all objections received, including the
4 postmark dates or other proof of timely submission for each objection. Class Members who submit
5 a timely Notice of Objection will have a right to appear at the Final Approval Hearing in order to
6 have their objections heard by the Court. At no time shall any of the Parties or their counsel seek
7 to solicit or otherwise encourage Class Members to file or serve written objections to the
8 Settlement or appeal from the Final Approval Order and Final Judgment. Class Counsel shall not
9 represent any Class Members with respect to any such objections.

10 2.19 *No Solicitation of Settlement Objections or Exclusions.* The Parties agree to
11 use their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties or
12 their counsel seek to solicit or otherwise encourage Class Members to submit either written
13 objections to the Settlement or Requests for Exclusion from the Settlement, or to appeal from the
14 Court's Final Judgment.

15 2.20 *Funding and Allocation of Settlement.* Defendants are required to pay the
16 sum of the Individual Settlement Payments, the Class Representative Service Awards, ~~the~~ Class
17 Counsel Fees, ~~the~~ Class Counsel Costs, the LWDA PAGA Allocation, and the Settlement
18 Administration Costs, as specified in this Agreement, up to the Gross Settlement Fund of Seven
19 Hundred ~~and~~ Fifty Thousand Dollars (\$750,000.~~00~~).

20 a. Within fifteen (15) calendar days following the Effective Date of the
21 Settlement, Defendants/Cross-Defendants shall deposit into the Settlement Fund Account their
22 respective shares of the Seven Hundred ~~and~~ Fifty Thousand Dollars (\$750,000) Gross Settlement
23 Fund owing in accordance with the terms of this Agreement. No distributions from the Settlement
24 Fund Account shall occur until authorization in writing or via e-mail is provided to the Settlement
25 Administrator by Class Counsel and Defendants' counsel. Any interest that accrues within the
26 Settlement Fund Account shall be applied toward the Gross Settlement Fund.

27 b. No more than five (5) business days after the Settlement is fully
28 funded, the Settlement Administrator will provide the Parties with an accounting of all anticipated

1 payments and awards from the fund. Payments from the fund shall be made for (1) Individual
2 Settlement Payments to Settlement Class Members, (2) the Class Representative Service Awards,
3 as specified in this Agreement and approved by the Court; (3) Class Counsel Fees and Class
4 Counsel Costs, as specified in this Agreement and approved by the Court; (4) ~~the~~ Settlement
5 Administration Costs, as specified in this Agreement and approved by the Court; and (5) the
6 LWDA PAGA Allocation, as specified in this Agreement and approved by the Court.

7 2.21 *Individual Settlement Payments.* Individual Settlement Payments will be
8 paid from the Net Settlement Fund and shall be paid pursuant to the formula set forth in Paragraph
9 2.22 herein. Individual Settlement Payments shall be mailed by regular First Class U.S. Mail to
10 Settlement Class Members' last known mailing address within fourteen (14) calendar days after
11 the funding of the Settlement is completed. Individual Settlement Payments reflect settlement of a
12 dispute regarding wages and interest/penalties. Individual Settlement Payments will be allocated
13 as follows: forty percent (40%) as penalties; forty percent (40%) as interest; and twenty percent
14 (20%) as wages. The Settlement Administrator shall issue the appropriate tax documents
15 associated with the Individual Settlement Payments. Any checks issued to Settlement Class
16 Members shall remain valid and negotiable for one hundred ninety eighty (18090) days from the
17 date of ~~their~~ issuance.

18 a. Unclaimed Wages. Subject to the Court's approval and a finding of
19 good cause, ~~If~~ the unclaimed amounts from any Individual Settlement Payment checks that were
20 not cashed or deposited within one hundred eighty nine (18090) days from the date of ~~their~~
21 issuance shall be held by the State of California Unclaimed Wages Fund of the Department of
22 Industrial Relations, subject to the approval by the Court. Under this proposal for distribution of
23 unclaimed funds, ~~if~~ any participating Settlement Class Member does not cash or deposit his or her
24 Individual Settlement Payment check within one hundred eighty ninety (18090) days after
25 issuance, then ~~ten (10)~~ business days after the 18090-day deadline, the Settlement Administrator
26 shall void the check and remit the funds to the State of California Unclaimed Wages Fund for the
27 benefit of the employee, together with a spreadsheet identifying the information for each
28 participating Settlement Class Member who did not timely cash or deposit ~~their~~his or her

1 Individual Settlement Payment check and the amount of the uncashed check. The Parties ~~do not~~
2 ~~believe agree~~ that good cause exists for the Court to approve their proposed distribution the recent
3 amendment to pursuant to California Code of Civil Procedure section 384, because should apply
4 to this Settlement term to require cy pres distributions because no cy pres component is proposed
5 and the unclaimed funds include unclaimed wages of employees that will be held by the State of
6 California for the benefit of these said employees, who may request receipt of payment from the
7 State of California Unclaimed Wages Fund. Thus, the Parties agree believe that their proposed
8 distribution would better serve the interests of the Settlement Class Members than the distribution
9 proposed in California Code of Civil Procedure section 384.

27 b. *FLSA Settlement Class and Opt-In Language.* Each Settlement Class
28 Member's Individual Settlement Payment check will include the following language

1 acknowledging that, by cashing or depositing the Individual Settlement Payment check, that
2 person is opting into the Action for purposes of the FLSA: “By endorsing this check for cash or
3 deposit, I am hereby opting into the FLSA Settlement Class in the action entitled *Granciano, et al.*
4 v. *Southwind Foods, LLC, et al.*, Los Angeles Superior Court Case No. BC538900, and I agree and
5 acknowledge that by doing so the claims that I am releasing will also include any claims that I
6 have under the FLSA (29 U.S.C. §§ 201, *et seq.*) only as to the Released Claims as set forth more
7 fully in the Notice of Settlement. ” Settlement Class Members who timely cash their Individual
8 Settlement Payments (and, in doing so, become FLSA Settlement Class Members) will be deemed
9 to have opted into the Action for purposes of the FLSA and, as to those FLSA Settlement Class
10 Members, the Released Claims include any claims such FLSA Settlement Class Members may
11 have under the FLSA only as to the Released Claims. Only those Settlement Class Members who
12 timely cash their settlement check will be deemed to have opted into the Action for purposes of
13 the FLSA and thereby released and waived any of their claims under the FLSA only as to the
14 Released Claims.

15 2.22 *Calculation of Individual Settlement Payments.* Individual Settlement
16 Payments to Settlement Class Members will be calculated by the Settlement Administrator as
17 follows: The Settlement Administrator will calculate the Net Settlement FundAmount and 25% of
18 the LWDA PAGA Allocation. Defendants will calculate the total Compensable Work Weeks for
19 all Class Members and will provide that information to the Settlement Administrator. The
20 respective Compensable Work Weeks for each Class Member, as set forth in the Class List by
21 Defendants, will be divided by the total Compensable Work Weeks for all Class Members,
22 resulting in the Payment Ratio for each Class Member. Each Class Member’s Payment Ratio will
23 then be multiplied by the Net Settlement Fund to determine his or her Individual Settlement
24 Payment. This is a “no claims made”, non-reversionary settlement. Thus, to the extent any Class
25 Member validly requests exclusion, the portion of the Net Settlement Fund that would have been
26 paid to the excluded Class Members(s) shall be distributed on an equal, *pro rata* basis among all
27 Settlement Class Members as part of their Individual Settlement Payment. Each Individual
28 Settlement Payment will be reduced by any legally mandated deductions for payroll taxes or other

1 required withholdings. Southwind shall be responsible for payment of any employer-side payroll
2 taxes in addition to Southwind's payment of its share of the Gross Settlement Fund in the amount
3 of \$623,500. Other than Plaintiffs, Settlement Class Members are not eligible to receive any
4 compensation other than an Individual Settlement Payment, and they may only receive an
5 Individual Settlement Payment if they do not timely and validly request exclusion.

6 2.23 *Class Representative Service Awards.* Defendants agree not to oppose or
7 object to any application or motion by Plaintiffs to be appointed Class Representatives and for a
8 Class Representative Service Award to be paid to each Plaintiff, not to exceed Ten Thousand
9 Dollars (\$10,000.00) each, as consideration for the release of all Released Claims, for the risks
10 undertaken and potential stigma that may attach for filing this lawsuit against their former
11 employer(s), and for their time and effort in bringing and prosecuting this matter for the benefit of
12 participating Class Members. The Class Representative Service Awards shall be paid to Plaintiffs
13 from the Gross Settlement Fund no later than fourteen (14) calendar days after funding of the
14 Settlement is completed. The Settlement Administrator shall issue an IRS Form 1099-MISC to
15 each Plaintiff for their Class Representative Service Award. Plaintiffs agree to provide the
16 Settlement Administrator with an executed IRS Form W-9 before the Class Representative Service
17 Awards are issued. Plaintiffs shall be solely and legally responsible to pay any and all applicable
18 taxes on their respective Class Representative Service Award and shall hold harmless Defendants
19 from any claim or liability for taxes, penalties or interest arising as a result of the payment of Class
20 Representative Service Awards. The Class Representative Service Awards shall be in addition to
21 each Plaintiff's Individual Settlement Payment as a Settlement Class Member. In the event that the
22 Court awards less than the requested amount of each Class Representative Service Award, then
23 any portion of the requested amount not awarded to either or both Plaintiffs shall become part of
24 the Net Settlement Fund. In the event the Court reduces or does not approve the requested Class
25 Representative Service Awards, Plaintiffs shall not have the right to revoke their agreement to the
26 Settlement, which shall remain binding on the Parties.

27 2.24 *Class Counsel Fees and Costs.* Defendants agree not to oppose or object to
28 any application or motion by Class Counsel for attorneys' fees not to exceed Two Hundred Forty

1 Nine Thousand Nine Hundred ~~and~~ Seventy Five Dollars (\$249,975). Defendants also agree not to
2 oppose or object to any application or motion by Class Counsel for reimbursement of actual ~~Class~~
3 ~~Counsel~~ ~~C~~ costs incurred not to exceed Twenty-Six Thousand Dollars (\$26,000), as supported by
4 declarations from Class Counsel, ~~from the Gross Settlement Fund~~. Class Counsel shall be paid
5 any Court-approved fees and costs, including any interest accrued thereon, no later than fourteen
6 (14) calendar days after the Settlement is fully funded. Class Counsel shall be solely and legally
7 responsible to pay all applicable taxes on the ~~payments~~ made pursuant to this Paragraph. The
8 Settlement Administrator shall issue an IRS Form 1099-MISC to Class Counsel for the payments
9 made pursuant to this Paragraph. This Settlement is not contingent upon the Court awarding Class
10 Counsel any particular amounts in attorneys' fees or costs. In the event the Court reduces or does
11 not approve the requested amounts of Class Counsel Fees and/or Class Counsel Costs, the
12 Settlement shall remain binding on the Parties. Any ~~amounts~~ requested by Class Counsel for ~~the~~
13 Class Counsel Fees and Class Counsel Costs and not granted by the Court shall return to the Net
14 Settlement Fund and be distributed as provided in this Agreement.

15 2.25 *PAGA*. Subject to Court approval, the Parties shall allocate a total of Ten
16 Thousand Dollars (\$10,000) from the Gross Settlement Fund for the compromise of claims under
17 PAGA, Cal. Lab. Code §§ 2698, *et seq.*-(the “PAGA Allocation”). California Labor Code section
18 2699(i) requires that the Parties distribute any settlement of PAGA claims as follows: seventy-five
19 percent (75%) to the State of California’s Labor Workforce Development Agency (“LDWA”) for
20 enforcement of labor laws and education of employers; and twenty-five percent (25%) to
21 “aggrieved employees.” The Parties, therefore, agree that Seven Thousand Five Hundred Dollars
22 (\$7,500.~~00~~) of the LWDA PAGA Allocation shall be paid to the State of California-LWDA
23 (“LWDA PAGA Allocation”) from the Gross Settlement Fund by the Settlement Administrator no
24 later than fourteen (14) calendar days after the Settlement is fully funded. The remaining Two
25 Thousand Five Hundred Dollars (\$2,500.~~00~~) of the LWDA PAGA Allocation shall be part of the
26 Net Settlement Fund to be distributed in accordance with the terms of this Stipulation.

27 2.26 *Option to Terminate Settlement*. If, after the Response Deadline and before
28 the Final Approval Hearing, the number of Class Members who submitted timely and valid

1 Requests for Exclusion from the Settlement exceeds five percent (5%) of all potential Settlement
2 Class Members, Defendants shall have, in their respective sole discretion, the option to terminate
3 this Settlement. If Defendants exercise their option to terminate this Settlement, Defendants shall
4 pay all Settlement Administration Costs incurred up to the date of termination.

5 2.27 *Settlement Administration Costs.* The Settlement Administrator shall be
6 paid for the costs of administration of the Settlement from the Gross Settlement Fund. The
7 Settlement Administrator has submitted a bid for services that is capped at \$14,500. No fewer
8 than thirty (30) calendar days prior to the Final Approval Hearing, the Settlement Administrator
9 shall provide the Parties with a statement detailing the costs of administration, showing the
10 estimated Individual Settlement Payments to be made to Participating Settlement Class
11 mMembers, and listing the names and number of Class Members who have objected to or
12 requested exclusion from the Settlement. The Settlement Administrator, on Defendants' behalf,
13 shall have the authority and obligation to make payments, credits, and disbursements, including
14 payments and credits in the manner set forth herein, to Settlement Class Members calculated in
15 accordance with the methodology set out in this Agreement and orders of the Court. The Parties
16 agree to cooperate in the Settlement Administration process and to make all reasonable efforts to
17 control and minimize the cost and expenses incurred in administration of the Settlement.

18 2.28 *Settlement Administration.* The Parties each represent they do not have any
19 financial interest in the Settlement Administrator or otherwise have a relationship with the
20 Settlement Administrator that could create a conflict of interest. Plaintiffs' Counsel represents that
21 they have carefully vetted the proposed Settlement Administrator for adherence to reasonable
22 security measures and insurance coverage for cyber theft and losses from errors and omissions.
23 The Settlement Administrator shall be responsible for: processing and mailing payments to the
24 Class Representatives, Class Counsel, and Settlement Class Members; printing and mailing the
25 Notice Packets to Class Members as directed by the Court; receiving and reporting the Requests
26 for Exclusion; and Notices of Objection; and Claim Forms submitted by Class Members;
27 providing a declaration(s) as necessary in support of preliminary and/or final approval of this
28 Settlement; development and maintenance of a Settlement website to post key documents

1 regarding the Settlement and Final Judgment, and other tasks as the Parties mutually agree or the
2 Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the
3 Parties timely apprised of the performance of all Settlement Administrator responsibilities. Any
4 legally-mandated tax reports, tax forms, tax filings or other tax documents required by
5 administration of this Agreement shall be prepared by the Settlement Administrator. Any expenses
6 incurred in connection with such preparation shall be a cost of administration of the Settlement.
7 The Settlement Administrator shall be paid ~~the~~ Settlement Administration Costs no later than
8 fourteen (14) calendar days after the Settlement is fully funded.

9 2.29 *Final Approval Hearing.* At a reasonable time following the Response
10 Deadline, the Court shall hold the Final Approval Hearing, where objections, if any, may be heard,
11 and the Court shall determine amounts properly payable for (i) Class Counsel Fees and Costs, (ii)
12 Class Representative Service Awards, (iii) Individual Settlement Payments, (iv) the LWDA
13 PAGA Allocation, and (v) Settlement Administration Costs.

14 2.30 *Entry of Final Judgment.* If the Court approves this Settlement at the Final
15 Approval Hearing, the Parties shall request that the Court enter the Final Judgment after the
16 Settlement has been fully funded, with the Court retaining jurisdiction over the Parties to enforce
17 the terms of the judgment. Notice of entry of Final Judgment will be provided on the Settlement
18 website to be created and maintained by the Settlement Administrator, which the Parties agree will
19 satisfy due process.

20 2.31 *No Effect on Employee Benefits.* Amounts paid to Plaintiffs or other
21 Settlement Class Members pursuant to this Agreement will not count as earnings or compensation
22 for purposes of any benefits (e.g., 401(k) plans or retirement plans) sponsored by Defendants.

23 2.32 *Nullification of Settlement Agreement.* In the event: (i) the Court does not
24 enter the Preliminary Approval Order substantially in the form specified herein; (ii) the Court does
25 not grant final approval of the Settlement as provided herein; (iii) the Court does not enter a Final
26 Judgment as provided herein; or (iv) the Settlement does not become final for any other reason,
27 this Settlement Agreement shall be null and void and any order or judgment entered by the Court
28 in furtherance of this Settlement shall be treated as void from the beginning. In such a case, the

1 Parties and any funds to be awarded under this Settlement shall be returned to their respective
2 statuses as of the date and time immediately prior to the execution of this Agreement, and the
3 Parties shall proceed in all respects as if this Agreement had not been executed, except that any
4 fees already incurred by the Settlement Administrator shall be paid by the Parties in equal shares.
5 In the event an appeal is filed from the Court's Final Judgment, or any other appellate review is
6 sought, administration of the Settlement shall be stayed pending final resolution of the appeal or
7 other appellate review, but any fees incurred by the Settlement Administrator prior to it being
8 notified of the filing of an appeal from the Court's Final Judgment, or any other appellate review,
9 shall be paid to the Settlement Administrator by Defendants within thirty (30) days of said
10 notification.

11 2.33 *No Admission By the Parties.* Defendants deny any and all claims alleged in
12 this Action and deny all wrongdoing whatsoever. This Agreement is not a concession or
13 admission, and shall not be used against Defendants as an admission or indication with respect to
14 any claim of any fault, concession or omission by Defendants.

15 2.34 *Dispute Resolution.* Except as otherwise set forth herein, all disputes
16 concerning the interpretation, calculation or payment of settlement claims, or other disputes
17 regarding compliance with this Agreement shall be resolved as follows:

18 a. If Plaintiffs or Class Counsel, on behalf of Plaintiffs or any
19 Settlement Class Members, or the Defendants at any time believe that another Party has breached
20 or acted contrary to the Agreement, that pParty shall notify the other Parties in writing of the
21 alleged violation.

22 b. Upon receiving notice of the alleged violation or dispute, the
23 responding party shall have ten (10) days to correct the alleged violation and/or respond to the
24 initiating party with the reasons why the pParty disputes all or part of the allegation.

25 c. If the response does not address the alleged violation to the initiating
26 party's satisfaction, the Parties shall negotiate in good faith for up to ten (10) days to resolve their
27 differences.

28 d. If Class Counsel and Defendants are unable to resolve their

1 differences after twenty (20) days, either Party may file an appropriate motion for enforcement
2 with the Court.

3 2.35 *Exhibits and Headings.* The terms of this Agreement include the terms set
4 forth in any attached exhibit, which are incorporated by this reference as though fully set forth
5 herein. Any exhibits to this Agreement are an integral part of the Settlement. The descriptive
6 headings of any paragraphs or sections of this Agreement are inserted for convenience of reference
7 only and do not constitute a part of this Agreement.

8 2.36 *Interim Stay of Proceedings.* The Parties agree to make all efforts to obtain
9 a stay of all proceedings in the Action, except such proceedings necessary to implement and
10 complete the Settlement such as the filing of a stipulation for leave to file a ~~Third-Amended~~
11 ~~Complaint~~ adding a proposed FLSA claim for proposed release under the Settlement terms, in
12 abeyance pending the Final Approval Hearing to be conducted by the Court.

13 2.37 *Amendment or Modification.* This Agreement may be amended or modified
14 only by a written instrument signed by counsel for all Parties or their successors-in-interest.

15 2.38 *Entire Agreement.* This Agreement and any attached exhibits constitute the
16 entire Agreement among the Parties, and no oral or written representations, warranties or
17 inducements have been made to any ~~p~~Party concerning this Agreement or its exhibits other than
18 the representations, warranties, and covenants contained and memorialized in the Agreement and
19 its exhibits.

20 2.39 *Authorization to Enter into Settlement Agreement.* Counsel for all Parties
21 warrant and represent they are expressly authorized by the Parties whom they represent to
22 negotiate this Agreement and to take all appropriate actions required or permitted to be taken by
23 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
24 documents required to effectuate the terms of this Agreement. The Parties and their counsel will
25 cooperate with each other and use their best efforts to effect the implementation of the Settlement.
26 In the event the Parties are unable to reach agreement on the form or content of any document
27 needed to implement the Settlement, or on any supplemental provisions that may become
28 necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the

1 Court to resolve such disagreement. The persons signing this Agreement on behalf of Defendants
2 represent and warrant that they are authorized to sign this Agreement on behalf of Defendants.
3 Plaintiffs represent and warrant that they are authorized to sign this Agreement and that they have
4 not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

5 2.40 *Binding on Successors and Assigns.* This Agreement shall be binding upon,
6 and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

7 2.41 *California Law Governs.* All terms of this Agreement and the exhibits
8 hereto shall be governed by and interpreted according to the laws of the State of California.

9 2.42 *This Settlement is Fair, Adequate, and Reasonable.* The Parties believe this
10 Settlement is a fair, adequate, and reasonable settlement of this Action and have arrived at this
11 Settlement after extensive arm's-length negotiations, taking into account all relevant factors,
12 present and potential.

13 2.43 *Jurisdiction of the Court.* The Parties agree that the Court shall retain
14 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this
15 Agreement and all orders and judgments entered in connection therewith, and the Parties and their
16 counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing,
17 and enforcing the Settlement embodied in this Agreement and all orders and judgments entered in
18 connection therewith.

19 2.44 *Invalidity of Any Provision.* Before declaring any provision of this
20 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest
21 extent possible consistent with applicable precedents, so as to find all provisions of this
22 Agreement valid and enforceable.

23 2.45 *Waiver of Certain Appeals.* The Parties agree to waive appeals and to
24 stipulate to class certification for purposes of this Settlement only.

25 2.46 *Cooperation.* The Parties agree to cooperate fully with one another to
26 accomplish and implement the terms of this Settlement. Such cooperation shall include, but not be
27 limited to, execution of such other documents and the taking of such other action as may be
28 reasonably necessary to fulfill the terms of this Settlement. The Parties to this Settlement shall use

1 their best efforts, including all efforts contemplated by this Settlement and any other efforts that
2 may become necessary by Court order, or otherwise, to effectuate this Settlement and the terms set
3 forth herein.

4 a. Extension of Five Year Trial Deadline: To this end, the Parties

5 hereby stipulate to extend the five year statutory deadline to bring the case to trial under California
6 Code of Civil Procedure section 583.310 by one year. With the one year extension, the deadline to
7 bring the case to trial is March 11, 2020.

8 2.462.47 Confidentiality of Settlement. The Parties and their respective
9 counsel (and all employees thereof) expressly agree that they will maintain in strict confidence the
10 fact that this Action has settled, and the terms of the Settlement, until such time as Preliminary
11 Approval is granted by the Court (if granted). The Parties recognize that aspects of this Settlement
12 will be on file with the Court. However, except for information or documents disclosed to the
13 Court as part of preliminary approval of the Settlement, the Parties will not disclose or initiate the
14 disclosure of this Settlement or its terms until such time as Preliminary Approval is granted.

15 2.472.48 Notices. Unless otherwise specifically provided, all notices,
16 demands or other communications in connection with this Stipulation shall be: (1) in writing; (2)
17 deemed given on the third business day after mailing; and (3) sent via United States registered or
18 certified mail, return receipt requested, addressed as follows:

19 To Plaintiff:

20 Raymond P. Boucher
21 Shehnaz M. Bhujwala
22 Neil M. Larsen
23 Boucher, LLP
24 21600 Oxnard Street, Suite 600
25 Woodland Hills, California 91367

26 Sahag Majarian, II
27 Law Offices of Sahag Majarian, II
28 18250 Ventura Blvd.
 Tarzana, CA 91356

1 To Defendants:

2 John L. Barber, Esq.
3 Alison M. Miceli, Esq.

4 Lewis Brisbois Bisgaard & Smith LLP
5 701 B Street~~650 Town Center Drive~~, Suite 14900
6 San Diego~~Costa Mesa~~, CA 92101626
7 Attorneys for Southwind Foods, LLC

8 Rob D. Cucher, State Bar Number 219726
9 LAW OFFICES OF ROB CUCHER
10 315 South Beverly Drive, Suite 310
11 Beverly Hills, California 90212
12 Attorneys for Defendant and Cross-Defendant Staffpoint, LLC

13 Lawrence Hoodack, State Bar Number 97629
14 LAW OFFICES OF LAWRENCE HOODACK
15 P.O. Box 28514
16 Anaheim, California 92809
17 Telephone: 714-634-2030
18 Attorney for Defendant and Cross-Defendant Alliance Professional Business
19 Solutions, Inc.

20 Carl John Pentis, State Bar Number 116453
21 CARL JOHN PENTIS, ATTORNEY AT LAW
22 500 N State College Blvd, Suite 1200
23 Orange, California 92868
24 Attorney for Cross-Defendant Ashwin Syal

25 2.482.49 *Execution by Settlement Class Members.* It is agreed that it is
26 impossible or impractical to have each Class Member execute this Settlement Agreement. The
27 Notice of Settlement will advise all Settlement Class Members of the binding nature of the
28 releases and such shall have the same force and effect as if each Settlement Class Member
executed this Stipulation.

29 2.492.50 *Execution by Plaintiffs.* Plaintiffs, by signing this Stipulation, are
30 each bound by the terms herein and further agree not to request to be excluded from the
31 Settlement. -Any such request for exclusion shall therefore be void and of no force or effect.

32 2.502.51 The Parties hereto agree that the terms and conditions of this
33 Amended Stipulation of Settlement are the result of lengthy, intensive, arm's-length negotiations
34 between the Parties and that this Stipulation shall not be construed in favor of or against any of the
35 Parties by reason of their participation in the drafting of this Stipulation.

36 2.512.52 This Stipulation shall become effective upon its execution by all of

1 the undersigned. Plaintiffs, Class Counsel, Defendants, and Defendants' Counsel and Cross-
2 Defendants' Counsel may execute this Stipulation in counterparts, and the execution of
3 counterparts shall have the same force and effect as if each had signed the same instrument.
4 Copies of the executed Agreement shall be effective for all purposes as though the signatures
5 contained therein were original signatures.

6

7

8 DATED: _____ By: _____
9 CLAUDIA GRANCIANO
Plaintiff

10

11

12 DATED: _____ By: _____
13 RICARDO CONTRERAS
Plaintiff

14

15 DATED: _____ BOUCHER LLP
16

17 By: _____
18 RAYMOND P. BOUCHER
SHEHNAZ M. BHUJWALA
NEIL M. LARSEN
19

20 Attorneys for Plaintiffs and the Putative Class
21

22 DATED: _____ LAW OFFICES OF SAHAG MAJARIAN II
23

24 By: _____
25 SAHAG MAJARIAN II
26

27 Attorneys for Plaintiffs and the Putative Class
28

1 DATED: _____ By: _____
2
For Defendant Southwind Foods, LLC

3 DATED: _____ LEWIS BRISBOIS BISGAARD & SMITH LLP
4

5 By: _____
6 JOHN L. BARBER
ALISON M. MICELI

7 Attorneys for Defendant and Cross-Complainant
8 Southwind Foods, LLC

1 DATED: _____

2 By: _____
3 For Defendant and Cross-Defendant
4 Staffpoint, LLC

DATED: _____

LAW OFFICES OF ROB D. CUCHER

5 By: _____
6 ROB D. CUCHER

7 Attorneys for Defendant and Cross-Defendant
8 Staffpoint, LLC

1 DATED: _____

2 By: _____
3 For Defendant and Cross-Defendant
4 Alliance Professional Business Solutions, Inc.

5 DATED: _____

6 LAW OFFICES OF LAWRENCE HOODACK
7

8 By: _____
9 LAWRENCE HOODACK

10 Attorneys for Defendant and Cross-Defendant
11 Alliance Professional Business Solutions, Inc.
12
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1
2 DATED: _____

By: _____
3 Cross-Defendant Ashwin Syal

4
5 DATED: _____

CARL JOHN PENTIS, ATTORNEY AT LAW

6 By:

7 _____
8 CARL JOHN PENTIS

Attorneys for Cross-Defendant Ashwin Syal

EXHIBIT 3(A)

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Claudia Granciano, et al. v. Southwind Foods, LLC, et al.
Superior Court of the State of California, County of Los Angeles
Case No. BC538900

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS. **PLEASE READ THIS NOTICE CAREFULLY.**

*A court authorized this Notice. This is not a solicitation.
This is not a lawsuit against you, and you are not being sued.
However, your legal rights are affected whether you act or not.*

WHAT IS IN THIS NOTICE

- | | | |
|----|---|--------|
| 1. | Why should you read this Notice?..... | Page 1 |
| 2. | What is the Lawsuit about? | Page 2 |
| 3. | The <u>P</u> roposed Settlement..... | Page 3 |
| 4. | What do I have to do in response to this Notice?..... | Page 6 |
| 5. | How will my rights be affected?..... | Page 7 |
| 6. | Who are the attorneys representing the Parties? | Page 9 |
| 7. | How do I obtain additional information?..... | Page 9 |

1. Why should you read this Notice?

You received this Notice because your employment records with Southwind Foods, LLC (“Southwind”), Staffpoint, LLC (“Staffpoint”), and/or Alliance Professional Business Solutions, Inc. (“Alliance”) (collectively, “Defendants”) indicate that you are eligible to receive a settlement payment as a “Class Member” under the proposed Settlement in the lawsuit entitled *Granciano, et al. v. Southwind Foods, LLC, et al.*, which is pending before the Superior Court of the State of California, County of Los Angeles, Case No. BC538900 (the “Lawsuit”).

Because your rights may be affected by the proposed Settlement whether you act or not, it is important that you carefully read this Notice.

The Court in this Lawsuit ordered that this Notice be mailed to all Class Members to notify you of the proposed Settlement. This Notice does not express any opinion by the Court regarding the merits of any claims or defenses asserted by any party in the Lawsuit. Instead, this Notice was sent to you to inform you that this Lawsuit is pending and of the terms of the proposed Settlement, so that you may make appropriate decisions. In the event that this Notice conflicts with the Settlement Agreement, the terms of the Settlement Agreement shall govern.

The proposed Settlement will apply to all persons who meet the definition of the following Class:

All current and former non-exempt employees employed by Southwind Foods, LLC, Staffpoint, LLC, and/or Alliance Professional Business Solutions, Inc. who worked in any of Southwind Foods, LLC's facilities located in California at any time from March 11, 2010 through May 1, 2016 (the "Class Period").

According to Defendants' employment records, you are a member of the Class ("Class Member") because you are or were employed by one or more of the Defendants as a non-exempt employee who worked in one or more of Southwind Foods, LLC's facilities located in California sometime between March 11, 2010 and May 1, 2016. Again, as a Class Member, you are eligible to receive a settlement payment under the proposed Settlement.

Plaintiffs Claudia Granciano and Ricardo Contreras ("Plaintiffs") and Defendants, together with Cross-Defendants including Cross-Defendant Ashwin Syal, have presented this Settlement to the Court for its review and approval. On [Date of Preliminary Approval Order], the Court ordered that this Notice be provided to Class Members.

The Court will decide whether to provide final approval to the Settlement at a ~~court~~-hearing currently scheduled for _____ at ____ a.m./p.m., in **Department 14 of the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse, which is located at 312 North Spring Street, Los Angeles, California 90012**, before the Honorable Kenneth R. Freeman (the "Final Approval Hearing"). The Final Approval Hearing may be continued to another date. If that happens, the Claims Settlement Administrator will post information about the new date and time on the Settlement website at [settlement website address]. Notice of ~~F~~inal Approval and judgment will also be posted to the Settlement website at [settlement website address].

2. What is the Lawsuit about?

The Lawsuit is a putative class ~~action~~-and representative action, meaning a lawsuit where the claims and rights of many people are decided in a single court proceeding. In this case, there are two named plaintiffs, Ms. Claudia Granciano and Mr. Ricardo Contreras ("Plaintiffs"). Plaintiff Granciano, individually and on behalf of all other similarly situated employees, filed a wage and hour class action lawsuit against Southwind Foods, LLC and Staffpoint, LLC, on March 11, 2014 in the Superior Court of California, County of Los Angeles. On May 21, 2015, Plaintiff Granciano filed a First Amended Complaint to add Alliance Professional Business Solutions, Inc. as an additional named-Defendant. On July 8, 2015, Plaintiff Granciano filed a Second Amended Complaint to add Mr. Contreras as an additional named-Plaintiff and to seek relief ~~for alleged violations of the Labor Code~~ pursuant to the California Private Attorneys General Act of 2004 ("PAGA") (Cal. Lab. Code §§ 2698, *et seq.*).

The Lawsuit alleges that Defendants (1) failed to pay wages for all hours worked (Cal. Lab. Code § 1194), (2) failed to pay overtime compensation (Cal. Lab. Code § 510), (3) failed to provide meal periods (Cal. Lab. Code §§ 226.7 and 512), (4) failed to furnish complete and accurate wage statements (Cal. Lab. Code § 226), (5) failed to timely pay wages upon termination or resignation (Cal. Lab. Code §§ 201 and 202), (6) violated the PAGA (Cal. Lab. Code §§ 2698, *et seq.*), and (7) violated California's Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*)~~(“UCL”)~~.

As part of the Preliminary Approval process, Plaintiffs shall amend the operative Complaint to add a cause of action for unpaid wages pursuant to the Fair Labor Standards Act (“FLSA”) and file it with the Court. Defendants will stipulate for leave to file the Third Amended ~~Class Action~~ Complaint. In the event that the Settlement does not become final for any reason, then any Order permitting the filing of the Third Amended ~~Class Action~~ Complaint shall be treated by the Parties as void *ab initio* and the Second Amended ~~Class Action~~ Complaint will become ~~the~~ Plaintiffs' operative Complaint again.

Defendants deny these allegations and contend they complied with the law. Despite the Parties' respective positions and arguments, the Parties recognize the uncertainty and risks of further litigation of the Lawsuit, which would be protracted and expensive for the Parties. Accordingly, the Parties have agreed to settle the Lawsuit, subject to Court approval, upon the terms set forth in the ~~Joint Amended~~ Stipulation Regarding Class Action Settlement and Release (the “Stipulation” or “Settlement” or “Agreement” ~~or “Settlement Agreement”~~). The settlement is a compromise. Defendants, by settling the Lawsuit, do not admit, concede or imply any fault, wrongdoing or liability. Defendants will object to any claim if for any reason the Court does not approve the Settlement.

3. The ~~P~~roposed Settlement.

In exchange for the release of claims and cross-claims against Defendants and final judgment in the Lawsuit, Defendants agreed to pay up to Seven Hundred ~~and~~ Fifty Thousand Dollars (\$750,000) (“Gross Settlement ~~FundAmount~~”), exclusive of Defendants' employer-side payroll tax obligations that will be paid separately by Southwind Foods, LLC. The contributions shall be made as follows: \$623,500 by Southwind Foods, LLC, \$50,000 by Travelers Casualty and Surety Company of America on behalf of Southwind Foods, LLC, \$50,000 by Alliance Professional Business Solutions, Inc., \$25,000 by Ashwin Syal, and \$1,500 by Staffpoint, LLC.

After payment of Class Representative Service Awards to Plaintiffs, a ~~PAGA~~ payment to the California Labor and Workforce Development Agency (“LWDA”), ~~claims and s~~ettlement ~~a~~dministration ~~e~~Costs, and ~~Class Counsel~~ attorneys' fees and costs are deducted from the Gross Settlement ~~FundAmount~~, remaining funds will be distributed to Class Members who do not submit a valid and timely Request for Exclusion from the Settlement (“Settlement Class Members”), as further explained below:

- A. **Plaintiffs' Class Representative Service Awards.** -Class Counsel ~~may will~~ ask the Court to authorize ~~a~~Service Awards~~s~~ of up to Ten Thousand Dollars (\$10,000) ~~to~~each

to Plaintiffs for their service as ~~a~~Class Representatives. Plaintiffs will also be entitled to receive their Individual Settlement Payments from the Net Settlement AmountFund as described below.

- B. **PAGA Penalty Payment.** Ten Thousand Dollars (\$10,000) will be paid to settle claims alleged under PAGA. Of that amount, Seven Thousand ~~and~~Five Hundred Dollars (\$7,500), will be paid to the LWDA for its 75% share of the PAGA Penalty Payment, and Two Thousand ~~and~~Five Hundred Dollars (\$2,500) will be distributed equally to Settlement Class Members, including Plaintiffs.
- C. **Claims Settlement Administration Costs.** The ClaimsSettlement Administrator, Simpluris, Inc., will be paid for administering the proposed Settlement, which includes such tasks such as mailing and tracking this Notice, establishing and maintaining the Settlement website, calculating Class Member settlement payments, receiving and reviewing Requests for Exclusion and Objections, mailing checks and tax forms, and reporting to the Parties and the Court. TheClaimsSettlement Administration ~~e~~Costs are capped and ~~should~~will not exceed Fourteen Thousand ~~and~~ Five Hundred Dollars (\$14,500).
- D. **Class Counsel Attorneys' Fees and Costs.** You do not need to pay any portion of either Plaintiffs' or Defendants' attorneys' fees and costs. ClassCounselPlaintiffs will ask the Court to award Thirty Three and One Third percent (33.33%) of the Gross Settlement AmountFund to Class Counsel for their attorneys' fees for work performed in prosecuting this Class and Representative Action, which is Two Hundred Forty-Nine Thousand Nine Hundred Seventy-Five Dollars (\$249,975), and for a Cost Award for actual expenses and costs incurred by Class Counsel in prosecuting~~s~~ this action not to exceed Twenty-Six Thousand Dollars (\$26,000).
- E. **Net Settlement AmountFund.** The amounts described in Subparts A – D, above, will be paid from the Gross Settlement FundAmount, and any requested amounts not approved by the Court will revert to the Net Settlement Fund for distribution to "Settlement Class Members" who do not validly and timely request exclusion from the Settlement. Subject to Court approval, distribution to Settlement Class Members will be as follows:

Individual Settlement Payments to Settlement Class Members. The ClaimsSettlement Administrator will determine the portion of the Net Settlement Fund and portion of the PAGA Penalty Payment to be paid to each Settlement Class Member. TheIndividual Settlement Paymentss will be calculated as follows:

By dividing the number of Compensable Work Weeks for each Class Member during the Class Period by the total number of Compensable Work Weeks for all Class Members during the Class Period ("Payment Ratio"). A work week is defined as a fixed and regularly recurring period seven consecutive 24-hour periods totaling 168 hours. Here, the term "Work Weeks" simply means the number of such work weeks in which

you worked for Defendants at facilities in California during the Class Period, according to Defendants' payroll records. Each Settlement Class Member who does not validly and timely submit a Request for Exclusion will receive a Settlement Payment that includes a sum consisting of the Payment Ratio multiplied by the Net Settlement AmountFund, minus all applicable taxes except employer-side payroll taxes to be paid by Southwind Foods, LLC. If anyone or more Class Members validly requests exclusion from the Settlement, the portion of the Net Settlement Fund that would have been paid to the excluded Class Members(s) will be distributed to all participating Settlement Class Members on an equal, *pro rata* basis as part of their Individual Settlement Payment, after deduction of applicable taxes or other required withholdings.

According to Defendants' payroll records, you worked for one or more of the Defendants as a non-exempt employee at one or more of Southwind Foods, LLC's facilities in California sometime between March 11, 2010 and May 1, 2016 ("Class Period"). The number of your Work Weeks during the Class Period is _____.

If you dispute the information provided regarding the number of Compensable Work Weeks you worked for Defendants in California during the Class Period, then you must notify the Settlement Administrator and specify that you are challenging the number of Compensable Work Weeks and provide supporting documentation and/or an explanation to show contrary employment dates. The Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment shall be binding upon the Class Member and the Parties.

Your estimated Individual Settlement Payment, if you decide to participate in the Settlement, and do not submit a valid and timely Request for Exclusion, is \$ _____, less all applicable taxes. This estimated amount may increase or decrease depending on the Court's Orders and the number of Class Members who timely submit valid Requests for Exclusion from the Settlement.

The Individual Settlement Payments will be allocated ~~to various components of the monetary relief sought~~ as follows: forty percent (40%) as penalties; forty percent (40%) as interest; and twenty percent (20%) as wages. Each Class Member should seek his or her own personal tax advice prior to acting in response to this Notice.

The check for your Individual Settlement Payment will be mailed by U.S. Mail to your last known mailing address within thirty (30) days after the Effective Date of the Settlement and will remain valid and negotiable for ~~ninety~~¹⁸⁰ (9180) days from the date of issuance. After that time, any unclaimed checks will be sent to the California Department of Industrial Relations Unclaimed Wages Fund for the benefit of the employee.

4. What do I have to do in response to this Notice?

You do not need to submit a claim form or do anything else to participate in this Settlement and receive your share of the Net Settlement Fund.

You also have a right to request to be excluded from the Settlement completely, and the right to object to the Settlement. The option you choose affects whether you receive an Individual Settlement Payment and whether you give up certain rights. The option you choose will in no way affect your employment with Defendants.

Your options are listed below:

- A. **Participate in the Settlement**. To participate in this Settlement and receive your Individual Settlement Payment, you do not need to do anything at this time.
- B. **Participate in the Settlement But Dispute Individual Settlement Payment Information**. If you dispute the information provided in Section 3, above, which will be used to calculate your Individual Settlement Payment, then you must notify the Settlement Administrator and specify that you are challenging the number of Compensable Work Weeks and provide supporting documentation and/or an explanation to show contrary employment dates. Please retain proof of mailing, fax or email correspondence with the Settlement Administrator, or call the Settlement Administrator to make sure your dispute was received.
- C. **Exclude yourself from the Settlement**. To exclude yourself from participating in the Settlement, you must sign and return a written Request for Exclusion to the Claims Settlement Administrator either (1) by First Class or certified U.S. Mail post-marked no later than [Response Deadline], or (2) by facsimile to [Fax number] no later than [Response Deadline], or (3) submit a Request for Exclusion online at the Settlement websiteby email, [settlement website]email address, no later than [Response Deadline]. To be valid, a Request for Exclusion must: (1) contain the complete name, address, telephone number, and last four digits of the Social Security number of the Class Member requesting exclusion; (2) be signed and dated by the Class Member requesting exclusion; and

(3) be postmarked, faxed or email stamped by the [Response Deadline] and returned to the Settlement Administrator at the specified address, fax telephone number or email address.

If you timely and validly request to be excluded from the Settlement, you will not receive an Individual Settlement Payment under the Settlement, you will not be bound by the Settlement, and you will not have any right to object to or appeal the Settlement.

Unless a Class Member timely requests to be excluded from the Settlement, the Class Member will be bound by the judgment upon final approval of the Settlement, including the Releases described in this Notice.

D. **Object to the Settlement.** You can ask the Court to deny final approval of the Settlement by filing an objection. You cannot ask the Court to order a larger Settlement or to change the terms of the Settlement. The Court can only approve or deny the proposed Settlement. If the Court denies final approval of the Settlement, no Individual Settlement Payments will be sent out and the Lawsuit will continue. If that is what you want to happen, you must object.

If you wish to object to the proposed Settlement (or any portion of it), you must mail, fax, or email a written statement of objection ("Notice of Objection") to the Settlement Administrator by the [Response Deadline].

To be valid, a Notice of Objection must be postmarked submitted to the Settlement Administrator on or before [Response Deadline], must be signed by the Class Member, and must contain: (1) the full name, address, and telephone number of the Class Member objecting to the Settlement; (2) the dates of employment of the Class Member; (3) the job title(s) and job location(s) of the Class Member; (4) the last four digits of the Class Member's Social Security number; (5) the basis for the objection; and (6) whether the Settlement Class Member intends to appear at the Final Approval Hearing, and provide any legal briefs, papers or memoranda the objecting Class Member proposes to submit to the Court. The date of the postmark on the return envelope, or fax date or email date shall be deemed the exclusive means for determining whether a Notice of Objection was timely submitted. Class Members who fail to make objections in the manner specified above shall be deemed to have waived any written objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement.

You do not need to appear at the Final Approval Hearing in order to have your objection considered. If you have submitted a valid and timely Notice of Objection, then you have the right to appear before the Court at The Final Approval Hearing is currently scheduled for _____ at ____ a.m./p.m., in **Department 14 of the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse, which is located at 312 North Spring**

Street, Los Angeles, California 90012, before the Honorable Kenneth R. Freeman. You may appear at the Final Approval Hearing either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

You may both object to the Settlement and participate in it. Filing an objection will not exclude you from the Settlement. If you wish to be excluded from the Settlement, then you must follow the procedure above in Section C.

5. How will my rights be affected?

If the proposed Settlement is approved by the Court, Plaintiffs and every member of the Class who does not submit a valid and timely Request for Exclusion to the Claims Settlement Administrator under the procedures set forth above will release Defendants¹ from the “Released Claims” as described in the Settlement Agreement, which include any and all claims asserted in the Action Second Amended Class Action Complaint (“TAC”) against the Released Parties, or that could have been asserted against the Released Parties based upon the facts alleged in the Second Third Amended Class Action Complaint filed in the Lawsuit with the Court, by Plaintiffs or any Settlement Class Member, under the California Labor Code, California Wage Orders, California Unfair Competition Law, PAGA, and FLSA, during the Class Period from March 11, 2010 through May 1, 2016.

The Released Claims include, but are not limited to, claims for: (1) Failure to Pay Wages for All Hours Worked (Cal. Lab. Code § 1194) due to Defendants’ alleged time-rounding policies resulting in alleged underpayment of wages for regular and/or overtime hours worked by Plaintiff Granciano and Class Members; (2) Failure to Pay Overtime Compensation (Cal. Lab. Code § 510) due to Defendants’ alleged rounding policies applicable to Plaintiff Granciano and Class Members and auto-deductions of 30 minutes of total time worked and alleged attributions of that time to meal periods without pay; (3) Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7 and 512) for Defendants’ alleged failure to provide timely requisite meal periods of not less than 30 minutes to Plaintiff Granciano and Class Members who worked over five hours per shift and who worked over ten hours per shift, or to pay premium payments in lieu thereof; (4) Failure to Timely Pay Wages Upon Termination or Resignation (Cal. Lab. Code §§ 201 and 202) to Plaintiff Granciano and Class Members; (5) Failure to Furnish Accurate Wage Statements (Cal. Lab. Code § 226(a)) to Plaintiffs and Class Members (from March 11, 2013 through May 1, 2016); (6) Unlawful, Deceptive, and/or Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*) for the alleged violations set forth herein; and (7) PAGA (Cal. Lab. Code §§ 2698, *et seq.*) for the alleged violations set forth herein.

¹ The term “Defendants” include each and all of the Defendants and Cross Defendants that are Parties to the Settlement Agreement and their respective past and present parents, subsidiaries, affiliated companies and corporations, and each and all of their respective past and present directors, officers, and owners.

The Released Claims also include all claims for interest and/or penalties of any kind or nature arising out of or relating to the Released Claims and further extends to and includes claims for damages, civil penalties, restitution, injunctive relief, declaratory relief, punitive damages, and any other form of relief or remedy.

The Released Claims also include all claims Plaintiffs and Settlement Class Members may have against the Released DefendantsParties relating to (i) the payment and allocation of attorneys' fees and costs to Class Counsel pursuant to this Agreement, and (ii) the payment of the Class Representative Service Awards pursuant to this Agreement. It is the intent of the Parties that the judgment entered by the Court upon final approval of the Settlement shall have *res judicata* effect and be final and binding upon Plaintiffs and all Settlement Class Members regarding all of the Released Claims.

FLSA Release: Additionally, any Settlement Class Member who timely cashes his or her Individual Settlement Payment check, including either of the Plaintiffs, will thereby be deemed to have opted into the action for purposes of the FLSA claim asserted in the Third Amended Complaint under 29 U.S.C. §§ 201, et seq., and waived and released any claims such FLSA Settlement Class Members may have under the FLSA only as related to the Released Claims.

Released Claims and FLSA Release Do Not Include Civil Code Section 1542 General Release for Settlement Class Members: For the sake of clarity, the Parties agree that the Released Claims, including the FLSA Release, includeconsist of only those claims that meet the definition of Released Claims. As such, for example, Released Claims do not include claims for wrongful termination, unlawful harassment or Workers' Compensation. Nor does In other words, this releases contemplated by Plaintiffs and Settlement Class Members are not consideredtitutea blanket waivers of California Civil Code section 1542 for all claims, potential or actual, known or unknown, for violations of California's Labor Code, Wage Orders or FLSA by current and former employees of Defendants.

As of the Effective Date, the Settlement Class Members, including Plaintiffs, on behalf of themselves and their respective heirs, successors, assigns, and estates, release the Released Parties from the Released Claims during the Class Period. Plaintiffs and Settlement Class Members agree not to sue or otherwise make a claim against any of the Released Parties for the Released Claims.

6. Who are the attorneys representing the Parties?

Attorneys for Plaintiffs and the Class Members: Attorneys for Defendant Southwind Foods, LLC:

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Raymond P. Boucher, Esq.
Shehnaz M. Bhujwala, Esq.
Neil M. Larsen, Esq.
BOUCHER LLP

John L. Barber, Esq.
Alison M. Miceli, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP

21600 Oxnard Street, Suite 600
Woodland Hills, CA 91367
Tel: 818-340-5400; Fax: 818-340-5401

and

Sahag Majarian II, Esq.
LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
Tarzana, CA 91356-4229
Tel: 818-609-0807; Fax: 818-609-0892

Class Counsel

701 B Street~~650 Town Center Drive~~, Suite 14⁹~~200~~
San Diego~~Costa Mesa~~, California 92101~~626~~

Attorney for Defendant and Cross-Defendant
Staffpoint, LLC

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Rob D. Cucher, Esq.
LAW OFFICES OF ROB CUCHER
315 South Beverly Drive, Suite 310
Beverly Hills, California 90212

Attorney for Defendant and Cross-Defendant
Alliance Professional Business Solutions, Inc.

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Lawrence Hoodack, Esq.
LAW OFFICES OF LAWRENCE HOODACK
P.O. Box 28514
Anaheim, California 92809

Attorney for Cross-Defendant Ashwin Syal:

Carl John Pentis, Esq.
CARL JOHN PENTIS, ATTORNEY AT LAW
500 N State College Blvd, Suite 1200
Orange, California 92868

7. How do I obtain additional information?

This Notice only summarizes the class action Hawsuit, the Settlement¹ and related matters. For more information, you may inspect the relevant Court files on the Settlement website at [settlement website address]. You may also contact the Settlement Administrator and ask about the is Southwind Settlement:

SOUTHWIND FOODS, LLC Settlement Administrator
c/o Simpluris, Inc.
[ADDRESS]
[Settlement wWebsite Address]
[Toll-Free Number]

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT. PLEASE DO NOT CONTACT DEFENDANTS' CORPORATE OFFICES, MANAGERS OR ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT.

Dated: _____

4810-5718-5125.1

EXHIBIT 4

Shehnaz Bhujwala

From: FormAssembly <no-reply@formassembly.com> on behalf of DIR PAGA Unit
<lwdadonotreply@dir.ca.gov>
Sent: Tuesday, March 06, 2018 10:52 AM
To: Neil Larsen
Subject: Thank you for your Proposed Settlement Submission

03/06/2018 10:51:48 AM

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

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

EXHIBIT 5

EXHIBIT 5
PROPOSED SCHEDULE

Event	Timing
Last Day for Defendants to provide Settlement Administrator with Class Information	(15 days after entry of Preliminary Approval Order) If Preliminary Approval Order is entered on June 21, 2018: Friday, July 6, 2018
Last Day for Settlement Administrator to mail Notice Packet to Class Members by First Class U.S. Mail. ("Notice Date")	(14 days after receiving Class Information from Defendants) If Preliminary Approval Order is entered on June 21, 2018 and Defendants provide Class Information on Last Day: Friday, July 20, 2018
Response Deadline (last date to postmark, fax or email Requests for Exclusion or file and serve Objections)	(60 days after Settlement Administrator mails Notice Packets to Class Members) If Preliminary Approval Order is entered on June 21, 2018 and Notice Packets Mailed Out on July 20, 2018: Tuesday, September 18, 2018
Last Day for Settlement Administrator to provide parties with Complete List of Class Members Who Timely Requested Exclusion and Complete Copies of all Objections Received	(14 days after Response Deadline) If Response Deadline is September 18, 2018: Tuesday, October 2, 2018
Last Day for Settlement Administrator to Provide Declaration regarding Costs of Administration, Estimated Payments to Class Members, and Listing Names and Numbers of Class Members who Requested Exclusion or Objected to the Settlement	Tuesday, October 16, 2018 (30 days before Final Approval Hearing)
Last Day to File Motion for Final Approval of Class Action Settlement and Motion for Attorneys' Fees, Costs, and Service Awards	Tuesday, October 16, 2018 (30 days prior to Final Approval Hearing)

Final Approval Hearing	Thursday, November 15, 2018 at A.M./P.M. (at least 119 Days from Preliminary Approval Order)
Final Distribution of Residual Funds	Assume Effective Date is date of Final Approval Hearing, November 15, 2018; all deposits are made by Defendants to QSF within 15 days thereof, or by November 30, 2018; settlement checks must issue by December 14, 2018 and are valid for 180 days, or June 12, 2019; add 10 business days for settlement administrator's distribution of unclaimed funds: June 26, 2019
Final Accounting Report Filing Deadline	Assume distribution of unclaimed funds by June 26, 2019: Final Accounting Report deadline should be on or before Friday, July 12, 2019

EXHIBIT 6

Raymond P. Boucher, State Bar No. 115364
ray@boucher.la
Shehnaz M. Bhujwala, State Bar No. 223484
bhujwala@boucher.la
Brandon K. BrouilletteNeil M. Larsen, State Bar No. 276490273156
brouillettelarsen@boucher.la
BOUCHER LLP
21600 Oxnard Street, Suite 600
Woodland Hills, California 91367-4903
Tel: (818) 340-5400
Fax: (818) 340-5401

Sahag Majarian II, State Bar No. 146621
sahagii@aol.com
LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
Tarzana, California 91356
Tel: (818) 609-0807
Fax: (818) 609-0892

Attorneys for Plaintiffs,
CLAUDIA GRANCIANO and RICARDO CONTRERAS

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL CIVIL WEST DISTRICT

CLAUDIA GRANCIANO, individually and on behalf of all others similarly situated,

Plaintiff,

V.

SOUTHWIND FOODS, LLC, a California limited liability company; STAFFPOINT, LLC, a California limited liability company; and DOES 1 through 50, inclusive,

Defendants.

Case No. BC538900

CLASS ACTION

SECOND-THIRD AMENDED CLASS ACTION COMPLAINT

- (1) Failure to Pay Wages for All Hours Worked (Labor Code § 1194);
 - (2) Failure to Pay Overtime Compensation (Labor Code § 510);
 - (3) Failure to Provide Meal Periods (Labor Code §§ 226.7 and 512);
 - (4) Violation of the Fair Labor Standards Act (“FLSA”) (29 U.S.C. 201, et seq.);
 - (4)(5) Failure to Timely Pay Wages Upon Termination or Resignation (Labor Code §§ 201 and 202);
 - (5)(6) Failure to Furnish Accurate Wage Statements (Labor Code § 226(a)); and
 - (6)(7) Unlawful, Deceptive, and/or Unfair Business Practices (Business & Professions Code §§ 17200, *et seq.*);
and

(7)(8) Violation of the Private Attorneys General Act (“PAGA”) for Failure to Provide Accurate, Itemized Wage Statements (Labor Code § 2698, *et seq.*)

DEMAND FOR JURY TRIAL

Plaintiff S Claudia Granciano and Ricardo Contreras (“Plaintiffs”), individually and on behalf of all others similarly situated, hereby allege as follows:

INTRODUCTION

1. This class action and representative action complaint challenges the policies and practices of Southwind Foods, LLC, Staffpoint, LLC, Alliance Professional Business Solutions, Inc., and Does 2 through 50, inclusive (collectively, “Defendants”), which violate rights of Californians under the California Labor Code, the Industrial Welfare Commission’s (“IWC”) Wage Order 8-2001 (“Wage Order 8”), Business & Professions Code §§ 17200, *et seq.*, the Fair Labor Standards Act (“FLSA”), 29 U.S.C. 201, *et seq.*, and other applicable statutes and regulations. Defendants routinely round employees’ recorded working hours for purposes of compensation so as to result in failure to compensate employees for all hours worked, fail to pay overtime compensation for all overtime hours worked, fail to provide all meal periods as required by California law, fail to pay wages due to employees in a timely manner upon termination or resignation, and fail to provide accurate wage statements as required by California law. Defendants’ current and former employees have been damaged as a direct result of the above-described unlawful employment practices. Thus, Plaintiffs and other similarly-situated current and former employees are owed substantial unpaid wages and applicable penalties.

2. This complaint is also a representative action for the recovery of penalties brought pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code section 2698, *et seq.* PAGA permits an “aggrieved employee” to bring a lawsuit on behalf of himself and other current and former employees to recover civil penalties for Defendants’ violations of California’s Labor Code. Accordingly, Plaintiff Ricardo Contreras seeks penalties on behalf of himself and other current and former employees of Defendants for their past and ongoing

1 violations of the California Labor Code's wage statement requirements as set forth in Labor
2 Code section 226, subdivision (a).

JURISDICTION AND VENUE

4 3. The California Superior Court has jurisdiction over this action pursuant to
5 California Constitution Article VI, § 10, which grants the Superior Court “original jurisdiction
6 in all causes except those given by statute to other trial courts.” The statutes under which this
7 action is brought do not specify any other basis for jurisdiction.

8 4. The California Superior Court has jurisdiction over Defendants because they are
9 corporations and/or entities and/or persons with sufficient minimum contacts in California, are
10 citizens of California, or otherwise intentionally availed themselves of the California market so
11 as to render the exercise of jurisdiction over them by the California courts consistent with
12 traditional notions of fair play and substantial justice.

13 5. Venue is proper in the County of Los Angeles because Defendants exist,
14 transact business and/or have offices in this Judicial District; and/or venue is proper in this
15 Court pursuant to California Code of Civil Procedure § 395 because certain acts and omissions
16 complained of arose in this County.

PARTIES

18 6. Plaintiff Claudia Granciano is, and at all relevant times has been, a resident of
19 Los Angeles County, California. Plaintiff Granciano was an “employee” as that term is used in
20 the California Labor Code and the Industrial Welfare Commission (“IWC”) Wage Orders
21 regulating wages, hours, and working conditions. While employed by Defendants, Plaintiff
22 Granciano was routinely denied compensation for all hours worked, was not timely
23 compensated for all hours worked upon termination, and was not provided with accurate wage
24 statements. Plaintiff Granciano was employed by Defendants at the Southwind corporate
25 office, located at 2900 Ayers Ave., Los Angeles, California 90058, in non-exempt positions
26 from approximately September 2005 until she was terminated in or about September 2013.

27 7. Plaintiff Ricardo Contreras is, and at all relevant times has been, a resident of
28 Los Angeles County, California. Plaintiff was an “employee” as that term is used in the

1 California Labor Code and the Industrial Welfare Commission (“IWC”) Wage Orders
2 regulating wages, hours, and working conditions. While employed by Defendants Plaintiff
3 Contreras was not provided with accurate wage statements. Plaintiff Contreras was employed
4 by Defendants at Staffpoint offices located at 720 N. Valley St., Anaheim, California 92801,
5 from approximately November 2008 to July 3, 2015.

6 8. Defendant Southwind Foods, LLC (“Southwind”) is, and at all relevant times
7 was, a California limited liability company having its principal place of business at 2900 Ayers
8 Avenue, Los Angeles, California 90058. Plaintiffs are informed and believe, and based
9 thereon allege, that Southwind operates throughout the State of California, including in the
10 County of Los Angeles. Southwind is a “person” as defined in Labor Code § 18 and California
11 Business & Professions Code § 17201. Southwind is also an “employer” as that term is used in
12 the California Labor Code[and](#) the IWC Wage Orders[and](#) the FLSA.

13 9. Defendant Staffpoint, LLC (“Staffpoint”) is, and at all relevant times was, a
14 California limited liability company having its principal place of business at 450 East
15 Riverboat Way, Orange, California 92865. Plaintiffs are informed and believe, and based
16 thereon allege, that Staffpoint operates throughout the State of California. Staffpoint is a
17 “person” as defined in Labor Code § 18 and California Business & Professions Code § 17201.
18 Staffpoint is also an “employer” as that term is used in the California Labor Code[and](#) the
19 IWC Wage Orders[and](#) the FLSA.

20 10. Defendant Alliance Professional Business Solutions, Inc. (“Alliance”) is, and at
21 all relevant times was, a California corporation having its principal place of business at 9852
22 Katella Avenue, #334, Anaheim, California 92804. Plaintiffs are informed and believe, and
23 based thereon allege, that Alliance operates throughout the State of California. Alliance is a
24 “person” as defined in Labor Code § 18 and California Business & Professions Code § 17201.
25 Alliance is also an “employer” as that term is used in the California Labor Code[and](#) the IWC
26 Wage Orders[and](#) the FLSA.

27 11. The true names and capacities, whether corporate, associate, individual, or
28 otherwise of Does 2 through 50, inclusive, are unknown to Plaintiffs, who therefore sue said

1 defendants by such fictitious names pursuant to California Code of Civil Procedure § 474.
2 Each of the defendants designated herein as a Doe is negligently or otherwise legally
3 responsible in some manner for the events and happenings herein referred to and caused
4 injuries and damages proximately thereby to Plaintiffs, as herein alleged. Plaintiffs will seek
5 leave of Court to amend this complaint to show the names and capacities when the same have
6 been ascertained.

7 12. Plaintiffs are informed and believe, and based thereon allege, that each of the
8 defendants acted in concert with each and every other defendant, intended to and did
9 participate in the events, acts, practices, and courses of conduct alleged herein, and was a
10 proximate cause of damage and injury thereby to Plaintiffs as alleged herein.

11 13. At all times herein mentioned, each defendant was the agent or employee of
12 each of the other defendants, and was acting within the course and scope of such agency or
13 employment.

GENERAL ALLEGATIONS

14. Plaintiff Granciano and members of the Non-Exempt Employee Class, as
15 defined below, were hired by Defendants to work at Southwind's corporate office, located in
16 Los Angeles, California.

18 15. At all relevant times, Defendants classified Plaintiff Granciano and members of
19 the Non-Exempt Employee Class as non-exempt employees.

16. Defendants had the authority to hire and terminate Plaintiffs and members of
the proposed Classes; to set work rules and conditions governing Plaintiffs' and the class
members' employment; and to supervise their daily employment activities.

17. Defendants directly hired and paid wages and benefits to Plaintiffs and
members of the proposed Classes.

18. At all relevant times, Defendants rounded Plaintiff Granciano's and members of
the Non-Exempt Employee Class' hours for purposes of calculating compensation in a manner
that consistently inured to the benefit of Defendants, thus failing to compensate Plaintiff

1 Granciano and members of the Non-Exempt Employee Class for all hours worked as required
2 by California law.

3 19. In perpetrating the acts and omissions alleged herein, Defendants acted pursuant
4 to and in furtherance of a policy and practice of failing to compensate Plaintiff Granciano and
5 members of the Non-Exempt Employee Class for all hours worked, failing to compensate
6 Plaintiff Granciano and members of the Non-Exempt Employee Class- at a premium wage rate
7 for all hours worked in excess of eight (8) hours per day and forty (40) hours per week, failing
8 to pay wages due to Plaintiff Granciano and members of the Non-Exempt Employee Class in a
9 timely manner upon termination or resignation, and failing to provide Plaintiffs Granciano and
0 Contreras and members of the Wage Statement SubcElass with accurate, itemized wage
1 statements. All such acts are in violation of the California Labor Code, Wage Order 8,
2 Business & Professions Code §§ 17200, *et seq.*, the FLSA, and/or other applicable statutes and
3 regulations.

14 20. Plaintiffs are informed and believe, and based thereon allege, that each and
15 every one of the acts and omissions alleged herein was performed by, and/or attributable to,
16 defendants Southwind, Staffpoint, Alliance, and/or Does 2-50 acting as agents and/or
17 employees, and/or under the direction and control of Defendants, and that said acts and failures
18 to act were within the course and scope of said agency, employment, and/or direction and
19 control, and were committed willfully.

20 21. As a direct and proximate result of Defendants' unlawful actions, Plaintiffs and
21 members of the proposed Classes have suffered and continue to suffer from loss of earnings in
22 amounts as yet to be ascertained, but subject to proof at trial in amounts in excess of the
23 minimum jurisdiction of this Court.

CLASS ACTION ALLEGATIONS

25 22. Plaintiffs bring this action individually and on behalf of all persons similarly
26 situated pursuant to Code of Civil Procedure § 382.

27 || 23. Description of the “Classes”:

28 Plaintiff Granciano seeks to represent a class composed of and defined as follows:

1 All persons current and former non-exempt employees employed by Defendants
2 Southwind Foods, LLC, Staffpoint, LLC, and/or Alliance Professional Business
3 Solutions, Inc. as non-exempt employees who worked in any of Southwind
4 Foods, LLC's facilities located in the State of California at any time from
5 during between March 11, 2010 through May 1, 2016 and the date class
6 certification is granted ("Non-Exempt Employee Class").

7 Plaintiffs Granciano and Contreras also seek to represent a two subclasses
8 composed of and defined as follows:

9 All persons current and former non-exempt employees employed by Defendants
10 Southwind Foods, LLC, Staffpoint, LLC, and/or Alliance Professional Business
11 Solutions, Inc. who worked in any of Southwind Foods, LLC's facilities located
12 in the State of California between at any time from during March 11, 2013
13 through May 1, 2016 and the date class certification is granted that were subject
14 to Defendants' wage statement policies ("Wage Statement SubClass").

15 All current and former non-exempt employees employed by Southwind Foods,
16 LLC, Staffpoint, LLC, and/or Alliance Professional Business Solutions, Inc.
17 who worked in any of Southwind Foods, LLC's facilities located in California at
18 any time from between March 11, 2010 through May 1, 2016 and who opt-in to
19 the FLSA subclass pursuant to 29 U.S.C. § 216(b)
20 ("FLSA Subclass").

21 24. Community of Interest: Plaintiffs allege that there is a well-defined community
22 of interest in the litigation and that the proposed Classes are easily ascertainable. Class
23 members may be identified from records maintained by Defendants in the course and scope of
24 their ordinary business and may be notified of the pendency of this action by mail or other
25 reasonable means, using a form of notice similar to that customarily used in class actions.

26 25. Numerosity: Plaintiffs are informed and believe, and based thereon allege, that
27 the class members are so numerous that joinder of all affected class members individually
28 would be impractical. The membership of the proposed Classes is unknown to Plaintiffs at this
time; however, the Classes are estimated to be well in excess of one hundred (100) individuals.

29 26. Commonality: This action involves common questions of law and fact, as the
30 action focuses on Defendants' illegal practices and policies throughout the State of California,
31 which have been applied uniformly to all similarly-situated employees, in violation of the
32 California Labor Code, Wage Order 8, and Business & Professions Code §§ 17200, *et seq.*, and
33 the FLSA. The questions of law and fact common to the Classes include, but are not limited
34 to:

- 1 a) Whether Defendants' rounding policies and practices consistently inured
2 to the benefit of Defendants;
- 3 b) Whether Defendants' failed to compensate Plaintiff Granciano and
4 members of the Non-Exempt Employee Class for all hours worked;
- 5 c) Whether Defendants failed to pay all overtime compensation to Plaintiff
6 Granciano and members of the Non-Exempt Employee ~~e~~Class;
7 d) Whether Defendants failed to pay all overtime compensation to Plaintiffs
8 and members of the FLSA ~~s~~Subclass;
- 9 e) Whether Defendants failed to provide all meal periods to Plaintiff
10 Granciano and members of the Non-Exempt Employee Class as required
11 by California law;
- 12 f) Whether Defendants failed to pay all wages due to Plaintiff Granciano
13 and members of the Non-Exempt Employee Class within the required
14 time upon their discharge or resignation;
- 15 g) Whether Defendants failed to provide Plaintiffs Granciano and Contreras
16 and members of the Wage Statement ~~Sub~~Class with accurate, itemized
17 wage statements in compliance with Labor Code § 226;
- 18 h) Whether Defendants' conduct was willful or reckless;
- 19 i) Whether Defendants engaged in unfair business practices in violation of
20 Business & Professions Code §§ 17200, *et seq.*; and
- 21 j) The appropriate amount of damages, restitution, and/or monetary
22 penalties resulting from Defendants' violation of California law;~~;~~ and

23 27. Typicality: Plaintiffs' claims are typical of the class members' claims because
24 Defendants subjected all members of the proposed Classes to similar and/or identical
25 violations of the California Labor Code, Wage Order 8, and Business & Professions Code §§
26 17200, *et seq.*, and the FLSA.

27 28. Adequacy of Representation: Plaintiffs will fairly and adequately protect the
28 interests of the Classes and have retained counsel competent and experienced in class action

litigation in California and federal courts to ensure such protection. Plaintiffs have no interests antagonistic to, or in conflict with, the Classes. Plaintiffs and their counsel will prosecute this action vigorously for the benefit of the class members.

29. Superiority of Class Action: A class action is superior to other available methods for the fair and efficient adjudication of the claims asserted herein because joinder of all class members is impracticable. Class treatment will allow these similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and judicial system.

FIRST CAUSE OF ACTION

FAILURE TO PAY WAGES FOR ALL HOURS WORKED

(By Plaintiff Granciano on behalf of the Non-Exempt Employee Class Against All Defendants)

30. The preceding allegations are incorporated by reference as though fully set out herein.

31. At all times relevant herein, pursuant to Labor Code § 1194 and Wage Order 8, Defendants were required to compensate Plaintiff Granciano and members of the Non-Exempt Employee Class for all hours worked.

32. As alleged herein, Plaintiff Granciano and members of the Non-Exempt Employee Class regularly performed work for which they were not compensated in violation of Labor Code § 1194 and Wage Order 8. Defendants failed to compensate Plaintiff Granciano and members of the Non-Exempt Employee class for all hours worked due to Defendants' rounding policy which consistently injures to the benefit of Defendants.

33. Defendants unlawful policies and practices have resulted in Defendants' failure to pay substantial unpaid wages for regular and/or overtime hours worked by Plaintiff Granciano and members of the Non-Exempt Employee Class and Defendants have violated, and continue to violate, Labor Code §§ 200, 204, 510, 1194, 1197, and 1198 and Wage Order 8.

34. As a result of the conduct alleged herein, Plaintiff Granciano and members of the Non-Exempt Employee Class have been deprived of regular and/or overtime compensation

1 in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest
2 thereon, attorneys' fees, and costs.

3 **SECOND CAUSE OF ACTION**

4 **FAILURE TO PAY OVERTIME COMPENSATION**

5 (By Plaintiff Granciano on behalf of the Non-Exempt Employee Class Against All Defendants)

6 35. The preceding allegations are incorporated by reference as though fully set out
7 herein.

8 36. Pursuant to Labor Code §§ 510 and 1194 and Section 3 of the IWC Wage Order
9 No. 8, non-exempt employees are entitled to receive a higher rate of pay for all hours worked
10 in excess of eight (8) hours in a workday.

11 37. California Labor Code § 510, subdivision (a), states in relevant part:

12 Any work in excess of eight hours in one workday and any work in
13 excess of 40 hours in any one workweek and the first eight hours worked
14 in the seventh day of work in any one workweek and the first eight hours
15 worked on the seventh day of work in any one workweek shall be
16 compensated at the rate of no less than one and one-half times the
17 regular rate of pay for an employee. Any work in excess of 12 hours in
18 one day shall be compensated at the rate of no less than twice the regular
19 rate of pay for an employee. In addition, any work in excess of eight
20 hours on any seventh day of a workweek shall be compensate at the rate
21 of no less than twice the regular rate of pay of an employee.

22 38. Labor Code § 1198 further provides that “[t]he maximum hours of work and
23 standard condition of labor fixed by the commission shall be the maximum hours of work and
24 the standard conditions of labor for employees” and that “[t]he employment of any employee
25 for longer hours than those fixed by the order or under conditions of labor prohibited by the
26 order is unlawful.”

27 39. Defendants' payroll policies and procedures required Plaintiff Granciano and
28 members of the Non-Exempt Employee Class to work in excess of eight hours in a workday
but Defendants did not pay Plaintiff Granciano and members of the Non-Exempt Employee
Class all overtime wages earned for this time.

40. In addition, Defendants' payroll policies and procedures of rounding time as well as automatically deducting 30 minutes of Plaintiff Granciano and members of the Non-Exempt Employee Class' total time worked and attributing that to a meal period without pay resulted in workdays in which Plaintiff Granciano and members of the Non-Exempt Employee Class worked in excess of eight hours in a workday, but Defendants did not pay Plaintiff Granciano and members of the Non-Exempt Employee Class all overtime wages earned for this time.

41. As a result of Defendants' unlawful conduct, Plaintiff Granciano and members of the Non-Exempt Employee Class have suffered damages in an amount subject to proof, to the extent that they were not paid wages at an overtime rate of pay for all overtime hours worked.

42. Pursuant to California Labor Code § 1194, Plaintiff Granciano and members of the Non-Exempt Employee Class are entitled to recover the full amount of their unpaid overtime wages, prejudgment interest, and attorneys' fees and costs.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(By Plaintiff Granciano on behalf of the Non-Exempt Employee Class Against All Defendants)

43. The preceding allegations are incorporated by reference as though fully set out herein.

44. Labor Code § 226.7, subdivision (b), provides that “[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.”

45. Labor Code § 512 provides:

An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the

1 employee is no more than six hours, the meal period may be waived by
2 mutual consent of both the employer and employee. An employer may not
3 employ an employee for a work period of more than 10 hours per day
4 without providing the employee with a second meal period of not less than
30 minutes, except that if the total hours worked is no more than 12 hours,
the second meal period may be waived by mutual consent of the employer
and the employee only if the first meal period was not waived.

5 467. Labor Code § 516 provides that the Industrial Welfare Commission “may adopt or
6 amend working condition orders with respect to break periods, meal periods, and days of rest for
7 any workers in California consistent with the health and welfare of those workers.”

8 478. Section 11(A) of IWC Wage Order 8 provides that “Unless the employee is
9 relieved of all duty during a 30 minute meal period, the meal period shall be considered an “on
10 duty” meal period and counted as time worked. An “on duty” meal period shall be permitted
11 only when the nature of the work prevents an employee from being relieved of all duty and when
12 by written agreement between the parties an on-the-job paid meal period is agreed to. The
13 written agreement shall state that the employee may, in writing, revoke the agreement at any
14 time.”

15 489. Pursuant to Section 11(B) of IWC Wage Order 8 and Labor Code § 226.7,
16 subdivision (c), which states “If an employer fails to provide an employee a meal or rest or
17 recovery period in accordance with a state law, including, but not limited to, an applicable statute
18 or applicable regulation, standard, or order of the Industrial Welfare Commission, the
19 Occupational Safety and Health Standards Board, or the Division of Occupational Safety and
20 Health, the employer shall pay the employee one additional hour of pay at the employee’s
21 regular rate of compensation for each workday that the meal or rest or recovery period is not
22 provided.”

23 5049. On one or more occasions, Plaintiff Granciano and members of the Non-Exempt
24 Employee Class worked over five (5) hours per shift and therefore were entitled to a meal period
25 of not less than thirty (30) minutes prior to exceeding five (5) hours of employment.
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1 504. Further, on one or more occasions, Plaintiff Granciano and members of the Non-
2 Exempt Employee Class worked over ten (10) hours per shift and therefore were entitled to a
3 second meal period of not less than 30 minutes.

4 512. Plaintiff Granciano and members of the Non-Exempt Employee Class did not
5 validly or legally waive their meal periods, by mutual consent with Defendants or otherwise.

6 523. Plaintiff Granciano and members of the Non-Exempt Employee Class did not
7 enter into any written agreement with Defendants agreeing to an on-the-job paid meal period.

8 534. As a matter of Defendants' established company policy, Defendants failed to
9 always comply with the meal period requirements established by Labor Code §§ 226.7, 512, and
10 516, and Section 11 of IWC Wage Order 8, by failing to always provide Plaintiff Granciano and
11 members of the Non-Exempt Employee Class with a first and a second legally compliant meal
12 period or one additional hour of pay at the employee's regular rate of compensation for each
13 workday that a meal period was not provided.

14 545. Therefore, Plaintiff Granciano and members of the Non-Exempt Employee Class
15 are entitled to damages in an amount equal to one (1) additional hour of pay at each employee's
16 regular rate of compensation for each work day that the meal period was not provided, in a sum
17 to be proven at trial.

18 556. Pursuant to Labor Code § 218.6 and Civil Code § 3287, Plaintiff Granciano,
19 individually, and on behalf of all members of the Non-Exempt Employee Class, seeks recovery
20 of pre-judgment interest on all amounts recovered herein.

21 567. Pursuant to Labor Code § 218.5, Plaintiff Granciano, individually, and on behalf
22 of all members of the Non-Exempt Employee Class, requests that the Court award reasonable
23 attorneys' fees and costs incurred in this action.

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FOURTH CAUSE OF ACTION

VIOLATION OF THE FAIR LABOR STANDARDS ACT ("FLSA"), 29 U.S.C. 201, et seq.

(By Plaintiffs Granciano and Contreras on behalf of the FLSA Subclass Against All Defendants)

578. The preceding allegations are incorporated by reference as though fully set out herein.

589. At all times relevant to this action, Plaintiffs and members of the FLSA Subclass were employed by Defendants within the meaning of the FLSA.

6059. At all times relevant to this action, Plaintiffs, members of the FLSA Subclass, and Defendants were engaged in commerce within the meaning of 29 U.S.C. §§206(a) and 207(a).

604. Pursuant to 29 U.S.C. §206(a)(1), "Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the following rates: (C) \$7.25 an hour, beginning (July 24, 200940)."

612. Pursuant to 29 U.S.C. §207(a)(1), "...[N]o employer shall employ any of his employees who in any workweek is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

20 623. Defendants, as a matter of established company policy and procedure,
21 consistently and willfully failed to pay Plaintiffs and members of the FLSA Subclass at the
22 applicable minimum hourly rate for every compensable hour of labor they performed in violation
23 of 29 U.S.C. §206(a).

24 634. Defendants, as a matter of established company policy and procedure,
25 consistently and willfully failed to pay Plaintiffs and members of the FLSA Subclass overtime
26 compensation at rates not less than one and one-half times the regular rate of pay for each hour
27 worked in excess of forty hours in a workweek, in violation of 29 U.S.C. §207(a)(1).

1 645. Plaintiffs and members of the FLSA Subclass are not exempt from overtime,
2 including under any bona fide executive, administrative, or professional exemption or in the
3 capacity of outside salesman or any other exemption pursuant to 29 U.S.C. §213(a) or (b).

4 656. Due to Defendants' FLSA violations as described herein, Plaintiffs, pursuant to
5 29 U.S.C. §216(b), are entitled to recover from Defendants, jointly and severally, their unpaid
6 minimum wages and unpaid overtime compensation, an additional equal amount as liquidated
7 damages, additional liquidated damages for unreasonably delayed payment of wages, reasonable
8 attorneys' fees and costs of the action.

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FIFTH CAUSE OF ACTION

FAILURE TO TIMELY PAY WAGES UPON TERMINATION OR RESIGNATION

3 (By Plaintiff Granciano on behalf of the Non-Exempt Employee Class Against All Defendants)

4 66758. The preceding allegations are incorporated by reference as though fully set out
5 herein.

6 67859. Pursuant to Labor Code §§ 201 and 202, if an employer discharges an employee,
7 the wages earned and unpaid at the time of discharge are due and payable immediately, and if
8 an employee quits his or her employment, his or her wages shall become due and payable not
9 later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72)
10 hours notice of his or her intention to quit, in which case the employee is entitled to his or her
11 wages at the time of quitting.

12 6890. During the relevant time period, Defendants intentionally and willfully failed to
13 pay Plaintiff Granciano and certain members of the Non-Exempt Employee Class all wages,
14 earned and unpaid, within seventy-two (72) hours of Plaintiff Granciano and certain members
15 of the Non-Exempt Employee Class leaving Defendants' employ.

16 617069. Defendants' failure to pay Plaintiff Granciano and certain members of
17 the Non-Exempt Employee Class all wages, earned and unpaid, within seventy-two (72) hours
18 of them leaving Defendants' employ is in violation of Labor Code §§ 201 and 202.

19 627041. Pursuant to Labor Code § 203, if an employer willfully fails to pay, without
20 abatement or reduction, in accordance with §§ 201 and 202, any wages of an employee who is
21 discharged or who resigns, the wages of the employee shall continue as a penalty from the due
22 date thereof at the same rate until paid or until an action has commenced; but the wages shall
23 not continue for more than thirty (30) days.

24 63712. Plaintiff Granciano and certain members of the Non-Exempt Employee Class
25 are entitled to recover the statutory penalty for each day they were not paid, at their regular
26 hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

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FIFTH SIXTH CAUSE OF ACTION

FAILURE TO FURNISH ACCURATE WAGE STATEMENTS

(By Plaintiff Granciano and Plaintiff Contreras on behalf of the Wage Statement Subclass
Against All Defendants)

64723. The preceding allegations are incorporated by reference as though fully set out
herein.

65734. Pursuant to California Labor Code § 226(a), every employer shall furnish each
of its employees an accurate itemized statement in writing showing (1) gross wages earned; (2)
total hours worked by the employee; (3) the number of piece-rate units earned and any
applicable piece-rate if the employee is paid on a piece-rate basis; (4) all deductions, provided
that all deductions made on written orders of the employee may be aggregated and shown as
one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is
paid; (7) the name of the employee and only the last four digits of his or her social security
number or an employee identification number other than a social security number; (8) the name
and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect
during the pay period and the corresponding number of hours worked at each hourly rate by the
employee.

66754. Defendants intentionally and willfully failed to furnish Plaintiffs and members
of the Wage Statement Subclass with wage statements accurately listing the total number of
hours worked, the inclusive dates of the period for which the employee was paid, and the
name and address of the legal entity that is the employer.

67776. Plaintiffs and members of the Wage Statement Subclass have suffered injury
as a result of Defendants' knowing and intentional violation of California Labor Code §
226(a), as they could not and cannot promptly and easily determine from the wage statements
alone the total number of hours worked, the inclusive dates of the period for which the
employee was paid, and the name and address of the legal entity that is the employer.

68778. Plaintiffs and members of the Wage Statement Subclass are entitled to
injunctive relief and to recover from Defendants the greater of their actual damages caused by

1 Defendants' failure to comply with Labor Code § 226(a), or an aggregate penalty not to exceed
2 \$4,000 per employee, as well as costs of suit and reasonable attorneys' fees pursuant to Labor
3 Code § 226(e).

4 **SIXTH SEVENTH CAUSE OF ACTION**

5 **UNLAWFUL, DECEPTIVE, AND/OR UNFAIR BUSINESS PRACTICES**

6 (By Plaintiff Granciano on behalf of the Non-Exempt Employee Class, and Plaintiffs Granciano
7 and Contreras on behalf of the Wage Statement SubcElass and the FLSA Subclass, Against All
8 Defendants)

9 69798. The preceding allegations are incorporated by reference as though fully set out
10 herein.

11 79800. Business & Professions Code § 17200 provides that "unfair competition shall
12 mean and include any unlawful, unfair, or fraudulent business act or practice."

13 71801. Defendants are "persons" as defined under Business & Professions Code §
14 17201.

15 72812. Defendants' failure to provide compensation for all hours worked, in violation
16 of the California Labor Code and Wage Order 8, as alleged above, constitutes unlawful and/or
17 unfair activity prohibited by Business & Professions Code §§ 17200, *et seq.*

18 73823. Defendants' failure to timely provide compensation for all hours worked upon
19 termination or resignation, in violation of the California Labor Code and Wage Order 8, as
20 alleged above, constitutes unlawful and/or unfair activity prohibited by Business & Professions
21 Code §§ 17200, *et seq.*

22 74834. Defendants' failure to provide accurate wage statements, in violation of the
23 California Labor Code and Wage Order 8, as alleged above, constitutes unlawful and/or unfair
24 activity prohibited by Business & Professions Code §§ 17200, *et seq.*

25 75845. Defendants' business acts and omissions alleged herein constitute unfair trade
26 practices, in violation of Business & Professions Code §§ 17200, *et seq.*

27 76856. Plaintiffs and the members of the Classes have suffered injury in fact and have
28 lost money or property as a result of Defendants' unfair competition as alleged herein.

1 77876. By and through the unfair and unlawful business practices described herein,
2 Defendants have obtained valuable property, money and services from Plaintiffs and the
3 members of the Classes and have deprived Plaintiffs and members of the Classes of valuable
4 rights and benefits guaranteed by the law, all to the detriment of Plaintiffs and the members of
5 the Classes.

6 78887. By violating the California Labor Code and Wage Order 8, and by failing to
7 take appropriate measures to address these violations, Defendants' acts constitute *per se* acts of
8 unlawful, deceptive, and/or unfair business practices under Business & Professions Code §§
9 17200, *et seq.*

10 79898. As a direct, foreseeable, and proximate result of Defendants' acts and omissions
11 alleged herein, Plaintiffs and the members of the Classes have been deprived of substantial
12 wages to which they are entitled by law, all redounding to the unjust enrichment of
13 Defendants. Accordingly, Plaintiffs and the members of the Classes are entitled to restitution
14 of such wages as is specifically authorized by Business & Professions Code § 17203.

15 80890. Continuing commission of the acts alleged above will irreparably harm
16 Defendants' current employees for which harm they have no plain, speedy, or adequate remedy
17 at law. Accordingly, Defendants must be enjoined from further engaging in these practices as
18 more fully set forth below.

SEVENTH EIGHTH CAUSE OF ACTION

VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004 (“PAGA”)

FOR FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(By Plaintiff Contreras Against All Defendants)

84910. The preceding allegations are incorporated by reference as though fully set out herein.

25 82924. Pursuant to California Labor Code § 226(a), every employer shall furnish each
26 of its employees an accurate itemized statement in writing showing (1) gross wages earned; (2)
27 total hours worked by the employee; (3) the number of piece-rate units earned and any
28 applicable piece-rate if the employee is paid on a piece-rate basis; (4) all deductions, provided

1 that all deductions made on written orders of the employee may be aggregated and shown as
2 one item; (5) net wages earned; (6) the inclusive dates of the period for which the employee is
3 paid; (7) the name of the employee and only the last four digits of his or her social security
4 number or an employee identification number other than a social security number; (8) the name
5 and address of the legal entity that is the employer; and (9) all applicable hourly rates in effect
6 during the pay period and the corresponding number of hours worked at each hourly rate by the
7 employee.

8 83932. Defendants intentionally and willfully failed to furnish Plaintiff Contreras and
9 other aggrieved employees with wage statements accurately listing the inclusive dates of the
10 period for which the employee is paid and the name and address of the legal entity that is the
11 employer.

12 93484. Plaintiff Contreras is an aggrieved employee of Defendants as defined in Labor
13 Code section 2699, subdivision (a), which provides that any provision of the Labor Code that
14 provides for a civil penalty to be assessed and collected by the Labor and Workforce
15 Development Agency (or any of its departments, divisions, commissions, board agencies or
16 employees), may, as an alternative, be recovered through a civil action brought by an aggrieved
17 employee on behalf of himself or herself and other current or former employees.

18 85945. Labor Code section 2699.5 provides that section 2699.3, subdivision (a), applies
19 to any alleged violation of section 226, subdivision (a).

20 95686. Labor Code section 226.3 provides for civil penalties for violations of Labor Code
21 section 226, subdivision (a), in the amount of \$250 for each aggrieved employee per pay period
22 for each violation, and \$1,000 for each aggrieved employee per pay period for each subsequent
23 violation.

24 87967. Plaintiff Contreras, individually, and on behalf of all other aggrieved employees,
25 seeks and is entitled to twenty-five percent (25%) of all penalties obtained under Labor Code
26 section 2699, with the remaining seventy-five (75%) of all penalties obtained to be allocated to
27 the Labor and Workforce Development Agency for education of employers and employees about
28 their rights and responsibilities under the Labor Code.

1 88987. Labor Code section 2699.3(a) states in pertinent part: “A civil action by an
2 aggrieved employee pursuant to subdivision (a) or (f) of Section 2699 alleging a violation of any
3 provision listed in Section 2699.5 shall commence only after the following requirements have
4 been met: (1) The aggrieved employee or representative shall give written notice by certified
5 mail to the Labor and Workforce Development Agency and the employer of the specific
6 provisions of this code alleged to have been violated, including the facts and theories to support
7 the alleged violation.”

8 89998. Here, Plaintiff Contreras alleges violations of at least one provision listed in
9 Labor Code section 2699.5. As such, Labor Code section 2699.3, subdivision (a) applies to this
10 action, and Labor Code section 2699.3, subdivisions (b) and (c) do not apply to this action.

11 99100. On June 3, 2015, Plaintiff Contreras complied with Labor Code section
12 2699.3, subdivision (a) by giving written notice by certified mail to the Labor and Workforce
13 Development Agency (“LWDA”) and Defendants of the specific provisions of the Labor Code
14 alleged to have been violated, including the facts and theories to support the alleged violation.
15 Attached hereto as Exhibit “A” is a true and correct copy of Plaintiff Contreras’ LWDA letter.

16 941010. Labor Code section 2699.3, subdivision (a) further states in pertinent part:
17 “(2)(A) The agency shall notify the employer and the aggrieved employee or representative by
18 certified mail that it does not intend to investigate the alleged violation within 30 calendar days
19 of the postmark date of the notice received pursuant to paragraph (1). Upon receipt of that notice
20 or if no notice is provided within 33 calendar days of the postmark date of the notice given
21 pursuant to paragraph (1), the aggrieved employee may commence a civil action pursuant to
22 Section 2699.”

23 921021. As of July 6, 2015, no notice has been provided by the LWDA of its
24 intention to investigate Defendants’ alleged violations, which marks at least thirty-three (33)
25 calendar days of the postmark date of Plaintiff Contreras’ June 3, 2015 notice letter.

26 931023. As such, Plaintiff Contreras has complied with Labor Code section
27 2699.3, subdivision (a) and is authorized to commence a civil action that includes a cause of
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1 action pursuant to Labor Code section 2699 in a representative capacity on behalf of himself and
2 all other aggrieved employees of Defendants.

3 **PRAAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated,
5 hereby prays for relief as follows:

6 1. For an order certifying this action as a class action pursuant to Code of Civil
7 Procedure § 382 and representative action pursuant to PAGA;
8 2. For general damages in an amount within the jurisdictional limits of this Court,
9 according to proof;

10 3. For liquidated damages pursuant to 29 U.S.C. §216(b), according to proof;
11 3.4. For loss of earnings, according to proof;
12 4.5. For restitution of all monies due to Plaintiff and the class members;
13 5.6. For interest pursuant to Labor Code §§ 218.6 and 1194;
14 6.7. For penalties pursuant to Labor Code §§ 203, 226.3, 558, and 2699, and
15 applicable Industrial Welfare Commission Wage Orders;
16 7.8. For reasonable attorneys' fees pursuant to Labor Code §§ 218.5, 226(e) and
17 1194, and Code of Civil Procedure §§ 1021.5 and 1032-1033.5, and 29 U.S.C. §216(b);
18 8.9. For costs of suit including all expenses incurred herein pursuant to Labor Code
19 §§ 218.5, 226(e), and 1194, and 29 U.S.C. §216(b); and
20 9.10. For all other relief this Court deems just and proper.

BOUCHER LLP

21600 Oxnard Street, Suite 600
Woodland Hills, California 91367-4903

DATED: May 12, 20185

Respectfully submitted,

BOUCHER LLP

By:

RAYMOND P. BOUCHER
SHEHNAZ M. BHUJWALA
~~BRANDON K. BROUILLETTE~~ NEIL M.
LARSEN

LAW OFFICE OF SAHAG MAJARIAN II
SAHAG MAJARIAN II

Attorneys for Plaintiffs,
CLAUDIA GRANCIANO and RICARDO
CONTRERAS

DEMAND FOR JURY TRIAL

Plaintiffs, on behalf of themselves and all others similarly situated, hereby demands a trial by jury on all issues so triable.

DATED: July 6May , 20185

BOUCHER LLP

By:

RAYMOND P. BOUCHER
SHEHNAZ M. BHUJWALA
~~BRANDON K. BROUILLETTE~~NEIL M.
LARSEN

LAW OFFICE OF SAHAG MAJARIAN II

Attorneys for Plaintiff S.
CLAUDIA GRANCIANO and RICARDO
CONTRERAS

BOUCHER LLP

21600 Oxnard Street, Suite 600
Woodland Hills, California 91367-4903

EXHIBIT 7

1 Raymond P. Boucher, State Bar No. 115364
ray@boucher.la
2 Shehnaz M. Bhujwala, State Bar No. 223484
bhujwala@boucher.la
3 Neil M. Larsen, State Bar No. 276490
Larsenlarsen@boucher.la
4 BOUCHER LLP
21600 Oxnard Street, Suite 600
5 Woodland Hills, California 91367-4903
Tel: (818) 340-5400
6 Fax: (818) 340-5401

7 Sahag Majarian, II, State Bar No. 146621
sahagii@aol.com
8 LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
9 Tarzana, California 91356
Tel: (818) 609-0807
10 Fax: (818) 609-0892

11 | Attorneys for Plaintiffs and the Putative Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL ~~CIVIL WEST~~ DISTRICT

14 CLAUDIA GRANCIANO, individually and
on behalf of all others similarly situated,

Case No. BC538900

~~Assigned for all purposes to:~~

CLASS ACTION

AMENDED Hon. Kenneth R. Freeman; *Dept.*
3101

18 SOUTHWIND FOODS, LLC, a California
19 Limited Liability Company; STAFFPOINT,
LLC, a California Limited Liability Company;
and DOES 1-50, inclusive.

Defendants.

²² SOUTHWIND FOODS, LLC

Cross-Complainant,

V.

25 STAFFPOINT, LLC; ALLIANCE
26 PROFESSIONAL BUSINESS SOLUTIONS,
INC.; ASIWYNN SYAL; and BOES 1-25

Cross-Defendants

Date: ~~May 1~~ June 21, 2018

Time: 102:00 A.M.

Dept.: 14

Assigned for All Purposes to:

Hon. Kenneth R. Freeman,

Dept.:—310, 14 (Spring Street)

Action Filed:

March 11, 2014

None

**AMENDED [PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

1
2 The Motion for Preliminary Approval of Class Action Settlement filed by Plaintiffs
3 Claudia Granciano and Ricardo Contreras (collectively, “Plaintiffs”) came before this Court, on
4 ~~May~~June 21, 2018. The Court, having considered the terms of the proposed class action
5 settlement in the parties’ Amended Settlement Agreement¹, attached hereto as Exhibit A, and the
6 Class Notice, attached as an exhibit thereto (hereafter collectively, the “Amended Settlement
7 Agreement”); having considered the Motion for Preliminary Approval of Class Action Settlement
8 filed by Plaintiffs; having considered the respective points and authorities and declarations
9 submitted in support thereof; and good cause appearing, HEREBY ORDERS THE FOLLOWING:

10 1. The Court grants preliminary approval of the settlement terms as set forth in the
11 Amended Settlement Agreement and finds the terms to be within the range of reasonableness of a
12 settlement that ultimately could be granted approval by the Court at the Final Fairness Hearing.
13 The Court finds that the settlement terms are fair, adequate, and reasonable as to all potential Class
14 Members when balanced against the probable outcome of further litigation, given the risks relating
15 to liability and damages. It further appears that extensive and costly investigation and research has
16 been conducted such that counsel for the parties at this time are reasonably able to evaluate their
17 respective positions. It further appears to the Court that settlement at this time will avoid
18 substantial additional costs by all parties, as well as the delay and risks that would be presented by
19 further prosecution of the case. It appears that the settlement has been reached as a result of
20 intensive, arm’s-length negotiations utilizing an experienced third party neutral.

21 2. For purposes of the settlement, the Court finds that the proposed settlement class is
22 ascertainable and that there is a sufficiently, well-defined, community of interest among the class
23 in questions of law and fact.

24 3. For settlement purposes only, the Court grants conditional certification of the
25 following “Settlement Class” defined as follows:

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¹ The defined terms set forth in the parties’ Amended Settlement Agreement are incorporated by
28 reference in this Order.

All current and former non-exempt employees employed by Southwind Foods, LLC, Staffpoint, LLC, and/or Alliance Professional Business Solutions, Inc. who worked in any of Southwind Foods, LLC's facilities located in California at any time during the Class Period (March 11, 2010 through May 1, 2016).

4. For settlement purposes only, the Court also grants conditional certification of the following FLSA settlement subclass defined as follows:

All Class Members who opt-in to a FLSA subclass pursuant to 29 U.S.C. § 216(b) ("FLSA Subclass").

5. For purposes of the settlement, the Court appoints named Plaintiffs Claudia Granciano and Ricardo Contreras as the Class Representatives, and the law firms of Boucher, LLP and Law Offices of Sahag Majarian II as Class Counsel. Any Class Member may enter an appearance in the action, at their own expense, either individually or through counsel of their own choice. However, if they do not enter an appearance, they will be represented by Class Counsel.

6. The Court confirms Simpluris, Inc. as the Settlement Administrator and preliminarily approves settlement administration costs not to exceed \$14,500, which shall be paid from the Gross Settlement Fund for services rendered on behalf of the class.

7. The Court hereby preliminarily approves the definition and disposition of the Gross Settlement Fund amount of \$750,000 as set forth in the Amended Settlement Agreement, which shall be inclusive of: Class Counsel's attorneys' fees, not to exceed \$249,975 or 33-1/3% of the Gross Settlement Fund; Class Counsel's actual litigation costs not to exceed \$26,000; Settlement Administration Costs not to exceed \$14,500; Service Awards to each Plaintiff not to exceed \$10,000 each; and the \$10,000 LWDA PAGA Penalty Payment Allocation; all subject to the Court's final approval of the settlement. The Gross Settlement Fund is exclusive of Defendants' employer-side payroll tax obligations that will be paid separately by Defendant Southwind Foods, LLC. The contributions to the Gross Settlement Fund shall be funded as follows: \$623,500 by Southwind Foods, LLC, \$50,000 by Travelers Casualty and Surety Company of America on behalf of Southwind Foods, LLC, \$50,000 by Alliance Professional Business Solutions, Inc., \$25,000 by Ashwin Syal, and \$1,500 by Staffpoint, LLC.

1 8. ~~Plaintiffs are hereby granted leave of court to file within seven (7) days of this~~
2 ~~Order a~~The Plaintiffs' proposed Third Amended ~~Class Action~~ Complaint, lodged as Exhibit B
3 hereto, adding a claim under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201,
4 *et seq.* for proposed release under the settlement, and modifying the class and subclass definitions
5 to comport with the definitions in the Amended Settlement Agreement, is deemed filed as of the
6 date of entry of this Order. Defendants' respective Answers to the Second Amended Class Action
7 Complaint will be deemed their Answers to the Third Amended ~~Class Action~~ Complaint.

8 9. A Final Approval hearing on the question of whether the proposed settlement
9 should be finally approved as fair, reasonable, and adequate as to the members of the Settlement
10 Class is scheduled in Department 14 of ~~this Court~~the Spring Street Courthouse, located at
11 312 North Spring Street, Los Angeles, California 90012
12 on _____, 2018, at _____ A.M./P.M.

13 10. At the Final Approval Hearing, the Court will consider: (a) whether the settlement
14 should be approved as fair, reasonable, and adequate for the class; (b) whether a judgment
15 granting approval of the settlement should be entered; and (c) whether Plaintiffs' application for
16 an award of attorneys' fees, reimbursement of litigation expenses, and Class Representative
17 service awards should be granted.

18 11. Counsel for the parties shall file memoranda, declarations or other statements and
19 materials in support of their Motion for Final Approval by no later than _____,
20 2018.

21 12. Class Counsel shall file a motion for an award of attorneys' fees, costs, and service
22 awards no later than _____, 2018.

23 13. The Court finds that the form of providing notice to the Settlement Class regarding
24 the pendency of the action and of this settlement, and the method of giving direct notice to
25 members of the Settlement Class by U.S. Mail, constitute the best notice practicable under the
26 circumstances and constitute valid, due, and sufficient notice to all members of the Settlement
27 Class. They comply fully with the requirements of California Code of Civil Procedure section 382,
28 California Civil Code section 1781, California Rules of Court, Rules 3.766 and 3.769, the

1 California and United States Constitutions, and other applicable law.

2 14. The Court approves, as to form and content, the Notice of Class Action Settlement
3 ("Class Notice"), which is attached as Exhibit "A" to the Amended Settlement Agreement. Class
4 Counsel and Counsel for Defendants and Cross-Defendants, together with the Settlement
5 Administrator, shall have the ability to jointly authorize edits to the Class Notice that are
6 consistent with the terms of the Amended Settlement Agreement and this Order.

7 15. The Notice Date shall commence no later than 29 days after the date of this Order.

8 16. The Class Notice shall provide Class Members with, at least 60 days from the
9 mailing date of the Class Notice, time to opt out of settlement, object to the settlement or remain
10 part of the settlement and receive the benefits provided thereunder ("Response Deadline").

11 17. The Court directs the mailing of the Class Notice by First Class U.S. Mail to the
12 Class Members on the Notice Date.

13 18. On or before the Notice Date, the Class Notice shall also be made available on an
14 internet settlement website maintained by the Settlement Administrator.

15 19. On or before the Notice Date, the Settlement Administrator shall also set up a toll-
16 free telephone number that Settlement Class members may call with questions about the
17 settlement.

18 20. The Court further approves the procedures for Class Members to participate in,
19 request exclusion or object to the Settlement, as set forth in the Amended Settlement Agreement
20 and Class Notice.

21 21. The procedures and requirements for filing written objections in connection with
22 the Final Fairness Hearing are intended to ensure the efficient administration of justice and the
23 orderly presentation of any Class Member's objection to the Settlement Agreement, in accordance
24 with the due process rights of all Class Members.

25 22. In advance of the Final Fairness Hearing, on or before _____,
26 the Settlement Administrator shall provide a sworn declaration attesting to its administration of the
27 notice plan approved by the Court ____ calendar days before the hearing on Final Approval.

28 23. Pending the Final Fairness Hearing, all proceedings in this action, other than

1 proceedings necessary to carry out or enforce the terms and conditions of the Amended Settlement
2 Agreement and this Order, are stayed.

3 24. Counsel for the parties are hereby authorized to utilize all reasonable procedures in
4 connection with the administration of the settlement, which are not materially inconsistent with
5 either this Order or the terms of the Amended Settlement Agreement.

6 25. The Court orders the following implementation schedule for further proceedings up
7 to the Final Approval Hearing:

Event	Timing
Deadline for Plaintiffs to File Third Amended Class Action Complaint, Adding FLSA Claim	(7 days after entry of Preliminary Approval Order)
Last Day for Defendants to provide Settlement Administrator with Class Information	(15 days after entry of Preliminary Approval Order) <u>If Preliminary Approval Order is entered on June 21, 2018: Friday, July 6, 2018</u>
Last Day for Settlement Administrator to mail Notice Packet to Class Members by First Class U.S. Mail. ("Notice Date")	(14 days after receiving Class Information from Defendants) <u>If Preliminary Approval Order is entered on June 21, 2018 and Defendants provide Class Information on Last Day: Friday, July 20, 2018</u>
Response Deadline (last date to postmark, fax or email Requests for Exclusion or file and serve Objections)	(60 days after Settlement Administrator mails Notice Packets to Class Members) <u>If Preliminary Approval Order is entered on June 21, 2018 and Notice Packets Mailed Out on July 20, 2018: Tuesday, September 18, 2018</u>
Last Day for Settlement Administrator to provide parties with Complete List of Class Members Who Timely Requested Exclusion and Complete Copies of all Objections Received	(14 days after Response Deadline) <u>If Response Deadline is September 18, 2018: Tuesday, October 2, 2018</u>
Last Day for Settlement Administrator to Provide Declaration regarding Costs of Administration, Estimated Payments to Class Members, and Listing Names and Numbers of Class Members who Requested Exclusion or Objected to the Settlement	<u>Tuesday, October 16, 2018</u> (30 days before Final Approval Hearing)

1 2 3 Last Day to File Motion for Final Approval of Class Action Settlement and Motion for Attorneys' Fees, Costs, and Service Awards	<u>, 2018-Tuesday,</u> <u>October 16, 2018 (30 days prior to Final</u> <u>Approval Hearing)</u>
4 5 6 Final Approval Hearing	<u>, Thursday,</u> <u>November 15, 2018 at</u> <u>_____.</u> <u>A.M./P.M.</u> (at least 119 Days from Preliminary Approval Order)
<u>Final Distribution of Residual Funds</u>	<u>Assume Effective Date is date of Final</u> <u>Approval Hearing, November 15, 2018; all</u> <u>deposits are made by Defendants to QSF within</u> <u>15 days thereof, or by November 30, 2018;</u> <u>settlement checks must issue by December 14,</u> <u>2018 and are valid for 180 days, or June 12,</u> <u>2019; add 10 business days for settlement</u> <u>administrator's distribution of unclaimed funds:</u> <u>June 26, 2019</u>
<u>Final Accounting Report Filing Deadline</u>	<u>Assume distribution of unclaimed funds by</u> <u>June 26, 2019; Final Accounting Report</u> <u>deadline should be on or before Friday, July 12,</u> <u>2019</u>

18 26. The Final Fairness Hearing and related prior deadlines set forth above may, from
19 time to time and without further notice to the Settlement Class (except those who have filed timely
20 and valid objections), be continued or adjourned by Order of the Court, and the Court shall retain
21 jurisdiction to consider all further applications arising out of or connected with the Amended
22 Settlement Agreement.

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24 **IT IS SO ORDERED.**

1 DATED: _____, 2018
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HON. KENNETH R. FREEMAN

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AMENDED [PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 21600 Oxnard Street, Suite 600, Woodland Hills, CA 91367-4903.

On May 31, 2018, I served true copies of the following document(s) described as
SUPPLEMENTAL DECLARATION OF RAYMOND P. BOUCHER IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT on the interested parties in this action as follows:

BY ELECTRONIC SERVICE: Pursuant to the Court's Order Authorizing Electronic Service entered in the case, I provided the document(s) listed above electronically on the CASE ANYWHERE Website to the parties on the Service List maintained on the CASE ANYWHERE Website for this case. Case Anywhere is the on-line e-service provider designated in this case.

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

Executed on May 31, 2018, at Woodland Hills, California.

Tricia Yue