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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **COUNTY OF SAN FRANCISCO**

18  
19  
20 YEVGENIYA TSERNOH, individually,  
on behalf of all aggrieved employees, and  
21 on behalf of all others similarly situated

22 Plaintiffs,

23 vs.

24 VIDALITY, INC., a California  
25 corporation; CARDINALHIRE, INC., a  
California corporation; PAUL  
26 CAMPBELL, an individual; et al.,  
27 Defendants.  
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Case No.: CGC-20-585613

**FOURTH AMENDED JOINT  
STIPULATION OF CLASS ACTION  
SETTLEMENT AND RELEASE**

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**FOURTH AMENDED JOINT STIPULATION OF CLASS ACTION**

**SETTLEMENT AND RELEASE**

This Fourth Amended Joint Stipulation of Class Action Settlement and Release (“Settlement” or “Settlement Agreement”) is made and entered into by and between Plaintiff YEVGENIYA TSERNOH (“Plaintiff” or “Class Representative”), as an individual and on behalf of all others similarly situated (the “Class Members”), and Defendants VIDALITY, INC., CARDINALHIRE, Inc. and PAUL CAMPBELL (“Defendants”) (collectively with Plaintiff, the “Parties”).

**RECITALS**

1. On or about July 28, 2020, Plaintiff filed a putative class action in the San Francisco Superior Court asserting the following causes of action: (1) Failure to Pay Minimum Wages (Labor Code §§ 1194, 1197, 1197.1 and Wage Order 4-2001); (2) Liquidated Damages for Failure to Pay Minimum Wages (Labor Code § 1194.2); (3) Failure to Pay Overtime and Double-time Wages (Lab. Code §§ 204, 510, 1194, and Wage Order 4-2001); (4) Failure to Provide Meal Breaks (Lab. Code §§ 226.7, 512, and Wage Order 4-2001); (5) Failure to Provide Rest Breaks (Labor Code § 226.7, and Wage Order 4-2001); (6) Failure to Reimburse Required Business Expenses (Lab. Code § 2802, and Wage Order 4-2001); and (7) Failure to Provide Accurate and Itemized Wage Statements (Lab. Code § 226); (8) Failure to Timely Pay Wages Upon Termination (Lab. Code §§ 201, 203); and (9) Unfair Business Practices (Bus. & Prof. Code §§ 17200, et seq.). Plaintiff prayed for compensatory and statutory damages, penalties, restitution, injunctive relief, pre-judgment and post-judgment interest, attorney fees and expenses, and costs.

2. Plaintiff’s counsel, Infinity Law Group LLP (“Class Counsel”), diligently pursued an investigation of the proposed Class Members’ claims against Defendants, including any and all applicable defenses and the applicable law. The investigation included, *inter alia*, the exchange of information pursuant to informal discovery, including: (1) inspection and

1 analysis of personnel and payment records, as well as other relevant documents, data  
2 information and data produced by Defendants; (2) evaluation of legal positions taken by  
3 Defendants; (3) evaluation of potential class-wide damages; (4) review and research of applicable  
4 law with respect to the claims and potential defenses brought by Defendant; and (5) and telephonic  
5 conferences and email correspondence between Class Counsel and Defendants' counsel.

6 3. After informal discovery and investigations, on April 6, 2021, the Parties  
7 participated in a private mediation session with the Honorable Justice Steven M. Vartabedian  
8 (Ret.), a well-respected, experienced mediator in the field of wage and hour class actions,  
9 among other things. Based on this information and the settlement discussions during the  
10 mediation conducted at arm's length and settlement discussions, on April 6, 2021, the Parties  
11 came to an agreement to settle the Action.

12 4. Class Counsel has vigorously prosecuted this Action, and Defendants have  
13 vigorously defended it. The Parties have engaged in sufficient discovery and investigation to  
14 assess the relative merits of the claims and contentions of the Parties. Plaintiff and Class  
15 Counsel recognize the length of continued proceedings necessary to litigate their disputes  
16 through certification, trial, and any possible appeal. Plaintiff and Class Counsel have also taken  
17 into account the uncertainty and risk of the outcome of further litigation, the difficulties and  
18 delays inherent in such litigation, including, but not limited to, the risks related to a contested  
19 motion for class certification, the uncertainty of Defendants' financial condition, and the risks  
20 related to liability raised by the issues in this case. Plaintiff and Class Counsel are also aware  
21 of the burdens of proof necessary to establish liability for the claims asserted in the Action and  
22 the difficulties in establishing damages for the Class Members. Plaintiff and Class Counsel  
23 have also taken into account Defendants' agreement to enter into a settlement that confers  
24 substantial relief upon Settlement Class Members. Based on the foregoing, Plaintiff and Class  
25 Counsel have determined that this Settlement is a fair, adequate, and reasonable, and is in the  
26 best interests of the Class Members.  
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1 5. Defendants deny any liability or wrongdoing of any kind associated with the  
2 claims alleged in this Action and further deny that this case is appropriate for class treatment  
3 for any purpose other than this settlement.

4 6. Plaintiff, on behalf of herself and the Class, along with Defendants, and subject  
5 to the approval of the Court, stipulate that the case will be compromised and settled pursuant to  
6 the terms and conditions set forth in this Settlement Agreement and that after the date of the  
7 Court's final approval of this Settlement Agreement, judgment shall be entered, subject to the  
8 continuing jurisdiction of the Court as set forth below, subject to the recitals set forth above  
9 which by this reference become an integral part of this Settlement Agreement, and subject to  
10 the following definitions, terms and conditions:

11 **DEFINITIONS**

12 7. The following definitions are applicable to this Settlement Agreement.  
13 Definitions contained elsewhere in this Settlement Agreement also shall be effective.

14 "Action" means *Tsernoh v. Vidality, Inc. et al.*, San Francisco Superior Case No. CGC-20-  
15 585613 (filed July 28, 2020), and includes the Complaint.

16 8. "Campbell" means Defendant Paul Campbell.

17 9. "Employees" shall include all current and former persons who worked for  
18 Defendants in California as "Recruiters" from July 28, 2016 through date of preliminary  
19 approval.  
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21 10. "Claims Administrator" means Phoenix Class Administration Solutions or any  
22 other third-party class action settlement claims administrator agreed to by the Parties and  
23 approved by the Court for the purposes of administering this Settlement. The Parties each  
24 represent that they do not have any financial interest in the Claims Administrator or otherwise  
25 have a relationship with the Claims Administrator that could create a conflict of interest.

26 11. "Claims Administration Costs" means the cost payable from the Gross  
27 Settlement Fund to the Claims Administrator for administering this Settlement, including, but  
28 not limited to, printing, distributing, and tracking documents for this Settlement, tax reporting,

1 distributing the portions of the Net Settlement Amount as provided for herein, and providing  
2 necessary reports and declarations at the Parties' request. The estimated Claims Administration  
3 Costs are not to exceed \$6,795. The Claims Administration Costs shall be paid from the Gross  
4 Settlement Amount, including, if necessary, any such costs in excess of the foregoing estimate  
5 represented by the Claims Administrator as being the amount of costs and fees necessary to  
6 administer the Settlement.

7 12. "Class Counsel" is Infinity Law Group LLP.

8 13. "Class Counsel Award" means attorneys' fees agreed upon by the Parties and  
9 approved by the Court for Class Counsel's litigation and resolution of this Action, and all costs  
10 incurred and to be incurred by Class Counsel in the Action and approved by the Court,  
11 including, but not limited to, costs associated with documenting the Settlement, securing the  
12 Court's approval of the Settlement, and obtaining entry of the Judgment terminating this Action  
13 pursuant to California Rule of Court 3.769 ("Judgment"). The Class Counsel Award of fees  
14 and costs shall be paid from the Gross Settlement Amount. Defendants agree not to oppose a  
15 request for Class Counsel's attorneys' fees of one-third (1/3) of the Gross Settlement Amount  
16 ("Class Counsel Fee Award"), and do not oppose a request for Class Counsel's actual costs  
17 incurred, which is estimated to be approximately Ten Thousand Dollars (\$10,000.00) ("Class  
18 Counsel Cost Award").

19 14. "Class List" means a list of Class Members that Defendants will diligently and  
20 in good faith compile from business records and provide to the Claims Administrator within  
21 ten (10) days after preliminary approval of this Settlement. The Class List shall be formatted in  
22 Microsoft Office Excel and shall include each Class Member's full name; most recent mailing  
23 address and telephone number; email address; social security number; dates of engagement in  
24 California during the Class Period; the total number of workweeks worked by each Class  
25 Member during the Class Period, and any other relevant information needed to calculate  
26 settlement payments. The Class List is confidential and not to be disclosed to any party other  
27 than the Claims Administrator. To the extent Class Counsel requires the contact information  
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1 of any Class Member who is disputing the information in the Settlement Award Form, such  
2 information shall be provided by Defendants' counsel as required.

3 15. "Class Members" or "Class" means, "All current and former persons who worked  
4 for Vidality, Inc. and/or CardinalHire, Inc. and/or Paul Campbell in California as Recruiters from  
5 July 28, 2016 to the [date of preliminary approval]."

6 The Class does not include any person who previously released any Claims covered by  
7 the Settlement or any person who received an award through civil or administrative action for  
8 any Claim covered by this Settlement. The Class is estimated to include approximately 86  
9 current and former Recruiters of, Vidality Inc., and/or CardinalHire, Inc. and/or Paul  
10 Campbell. Defendants shall not be required to pay more than the Gross Settlement Amount if  
11 the class size does not increase by more than three individuals before preliminary approval is  
12 granted. If the class size increases to 90 or more individuals, the gross settlement amount will  
13 increase on a pro rata basis for the additional individuals. The additional settlement amount per  
14 individual above 89 will be calculated on a per class member basis.  
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17 Defendants will provide Plaintiff with a declaration attesting to the number of recruiters  
18 who have worked for Defendants during the class period.

19 16. "Class Period" means the period from July 28, 2016 to [date of preliminary  
20 approval].

21 17. "Class Representative Enhancement Payment" means the amount to be paid to  
22 Plaintiff in recognition of her effort and work in prosecuting the Action on behalf of Class  
23 Members and in exchange for a general release. The Class Representative Enhancement  
24 Payment shall be paid from the Gross Settlement Amount. Defendants do not oppose a request  
25 for a Class Representative Enhancement Payment up to Ten Thousand Hundred Dollars  
26 (\$10,000), subject to Court approval and the Court finally approving this Settlement  
27 Agreement, and subject to the exhaustion of any and all appeals. The Class Representative  
28 Enhancement Payment shall be paid in two installments: (1) fifty percent (50%) (\$5,000) shall

1 be paid one calendar year after the First Transfer Deadline; and (2) fifty percent (50%)  
2 (\$5,000) shall be paid one year after the Second Transfer Deadline.

3 18. "Gross Settlement Amount" means the total amount of One Hundred Thirty-  
4 Five Thousand Dollars and No/Cents (\$135,000.00) from which will be paid Individual  
5 Settlement Payments to Participating Class Members, the Class Representative Enhancement  
6 Payment to Plaintiff, the Claims Administration Costs to the Claims Administrator, the standard  
7 employee share of payroll taxes on the wage portion of the Individual Settlement Payments,  
8 and the Class Counsel Award of fees and costs. Subject to the provisions of this Agreement,  
9 CardinalHire, Inc. shall separately be obligated to pay the employer's share of payroll taxes.

10 19. "Net Settlement Amount" means the Gross Settlement Amount minus the Court-  
11 approved Class Representative Enhancement Payment to Plaintiff, the Court-approved Claims  
12 Administration Costs to the Claims Administrator, and the Court-approved Class Counsel  
13 Award of fees and costs. The Net Settlement Amount is the amount from which Individual  
14 Settlement Payments are made to Participating Class Members and is estimated to be  
15 approximately \$63,205 [Gross Settlement Amount (\$135,000) minus Claims Administration  
16 Costs (\$6,795) minus Class Representative Enhancement Payment (\$10,000) minus Class  
17 Counsel Award for Fees and costs of \$55,000].

18 20. "Court" means the San Francisco Superior Court with jurisdiction over this  
19 Action.

20 21. "Defendants" means Defendant Vidality, Inc., Defendant CardinalHire, Inc. and  
21 Defendant Paul Campbell.

22 22. "Effective Date" means the following: (a) if no one objects to the settlement,  
23 then the Effective Date will be the first day after service by Plaintiff on Defendants the Court's  
24 Entry of the Final Judgment and by the Claims Administrator by postcard on the Class of a  
25 Notice of Entry of the Final Judgment, whichever occurs later; (b) if a Class Member timely  
26 objects to the settlement, and if an appeal, review, or writ is not sought from the Final Judgment,  
27 then the Effective Date will be sixty-one (61) days after service of Notice of Entry of Final  
28 Judgment by Plaintiff on Defendants and any Objectors and by the Class Administrator by

1 postcard on the Class, whichever occurs later; or (c) if a Class Member timely objects to the  
2 settlement, and if an appeal, review or writ is sought from the Final Judgment, then all of  
3 Defendants' remaining obligations under this Agreement will be stayed until the day after the Final  
4 Judgment is affirmed, or the appeal or writ is dismissed or denied (or the time for filing an appeal or  
5 writ expires) which day will then be the Effective Date.

6 23. "Final Judgment" means the Judgment and Order of Final Approval of Class  
7 Action Settlement by which the Court finally approves this Settlement in a form substantially  
8 similar to the form attached hereto as Exhibit A. Notice of Entry of the Final Judgment shall  
9 be given by the Claims Administrator to the Class by the mailing of a postcard or a form  
10 approved by the Parties (or in any other manner approved by the Court) and shall be given by  
11 Plaintiff to CardinalHire, Inc., Vidality, Inc. Paul Campbell, and any other parties, including  
12 any Objectors.

13 24. "Individual Settlement Payment" means each Class Member's gross share of the  
14 Net Settlement Amount (before deduction for the standard employee's share of payroll taxes)  
15 is calculated by dividing the Net Settlement Amount by the Total Class Member Workweeks  
16 and then multiplying that amount by the number of weeks worked by each Class Member  
17 during the Class Period. One day of work within a Workweek qualifies the Class Member to  
18 the addition of the whole Workweek.

19 25. "Notice" means the Notice of Pendency of Class Action Settlement, in a form  
20 substantially similar to the form attached hereto as Exhibit B and which the Court orders to be  
21 sent to all Class Members via regular First-Class U.S. Mail. The Notice will be in English.

22 26. "Participating Class" and "Participating Class Members" means all Class  
23 Members who did not submit a timely Request for Exclusion pursuant to paragraph 30 of this  
24 settlement.

25 27. "Plaintiff" means the Plaintiff named in the Action: Yevgeniya Tsernoh.

26 28. "Preliminary Approval" means the Order of Preliminary Approval of Class  
27 Action Settlement by which the Court grants preliminary approval of the Settlement Agreement  
28 and in a form substantially similar to the form attached hereto as Exhibit C.



1           29.     “Released Claims” means all claims, rights, demands, liabilities and causes of  
2 action alleged in the Action during the Class Period regarding “Recruiters” only. Released  
3 Claims do not include any claims, rights, demands, liabilities and causes of action that may be  
4 alleged against Defendants by anyone who was not a “Recruiter” for any Defendant. The  
5 primary facts alleged in the Action are that Defendants misclassified Plaintiff and the Class as  
6 independent contractors rather than employees and failed to provide Plaintiff and the Class  
7 payment of overtime wages, compliant wage statements, reimbursement of expenses, rest  
8 breaks, meal periods, and all wages due upon termination. Additionally, Plaintiff alleges that  
9 in doing the above, Defendants violated Sections 17200, *et seq.* of the California Business and  
10 Professions Code. The Released Claims include all claims for legal or equitable relief, for  
11 compensatory and statutory damages, penalties, liquidated damages, restitution, injunctive  
12 relief, pre-judgment and post-judgment interest, and attorney fees and costs of suit that arise  
13 from, or relate to, the facts alleged in the Action. The foregoing is intended to include all claims  
14 that Class Members may have for minimum wages, straight time wages, overtime wages, meal  
15 and rest periods, claims under Labor Code Sections 201, 203, 204, 226, 226.7, 510, 512, 1194,  
16 1194.2, 1197, 1197.1, *et seq.*, and 2802; California Industrial Welfare Commission Wage Order  
17 4-2001; Bus. & Prof. Code §§ 17200, *et seq.*; and all other wage, interest, statutory damages,  
18 penalty, injunctive and attorney fee claims arising from, or related to, the facts alleged in the  
19 Action.

20           30.     “Request for Exclusion” means a timely and valid letter by a Class Member  
21 which unambiguously indicates a request to be excluded from the Settlement and which must  
22 also: (a) set forth the name, address, and telephone number of the person requesting exclusion;  
23 (b) be signed by the Class Member or the Class Member’s authorized representative requesting  
24 exclusion; (c) be addressed to the Claims Administrator at the specified address indicated in  
25 the Notice; and (d) be postmarked on or before the Response Deadline. Class Members who  
26 exclude themselves shall not have the right to object to the Settlement and any objection filed  
27 by a Class Member who has excluded themselves shall be disregarded by the Court.

1           31.     “Response Deadline” means the deadline by which Class Members must  
2 postmark to the Claims Administrator a Request for Exclusion, an Objection to the Settlement  
3 or a dispute of the amount reflected on the Settlement Award Form. The Response Deadline  
4 shall be sixty (60) calendar days from the initial mailing of the Notice by the Claims  
5 Administrator, unless the 60th day falls on a Sunday or Federal holiday, in which case the  
6 Response Deadline will be extended to the next day on which the U.S. Postal Service is open.  
7 The Response Deadline for any Class Member who is re-mailed a Notice by the Claims  
8 Administrator in accordance with the Notice Procedure shall be the earlier of (1) 60 days from  
9 the date the Notice Package is re-mailed or (2) a date which is 30 days prior to the final approval  
10 hearing. The Response Deadline may also be extended by express agreement between Class  
11 Counsel and Defendants’ Counsel.

12           32.     “Settlement” or “Settlement Agreement” means this Joint Stipulation of Class  
13 Action Settlement and Release, which is made and entered into by and between Plaintiff, and  
14 on behalf of all others similarly situated, and Defendants.

15           33.     “Settlement Award Form” means the Settlement Award Form, a form  
16 substantially similar to the form attached hereto as Exhibit D and which the Court orders to be  
17 sent to all Class Members via regular First-Class Mail. The Settlement Award Form shall be  
18 in English.

19           34.     “CardinalHire, Inc.” means Defendant CardinalHire, Inc.

20           35.     “Total Class Member Workweeks” means the aggregate of all weeks worked by  
21 the Participating Class Members during the Class Period. The aggregate number of weeks  
22 worked by all Class Members totals approximately 2,488 weeks.

23           36.     “Vidality” means Defendant Vidality, Inc.

24           37.     “Workweek Dollar Value” means the Net Settlement Amount (estimated to be  
25 \$63,205), divided by the Total Class Member Workweeks (approximately 2,488). The  
26 Workweek Dollar Value is estimated to be \$25.40 ( $\$63,205 \div 2,488 \text{ weeks} = \$25.40$ ).

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**TERMS OF AGREEMENT**

Plaintiff, on behalf of herself and Class Members, and Defendants all agree as follows:

**Defendants’ Primary Obligations under the Settlement Agreement**

38. Funding the Gross Settlement Amount. CardinalHire shall wire to the Claims Administrator the Gross Settlement Amount in three payments as set forth below:

- a. Sixty-Three, two hundred and five thousand dollars and No/Cents (\$63,205.00) of the Gross Settlement Amount, shall be wire-transferred by Defendants to the Claims Administrator 45 days after the Court grants final approval of the settlement (“Transfer Deadline”). In accordance with this Agreement, this portion of the Gross Settlement Amount shall be distributed to the Settlement Class.
- b. Thirty-Seven Thousand, Five Hundred Dollars and No/Cents (\$37,500.00), shall be wire-transferred by Defendants to the Claims Administrator one calendar year after the first Transfer Deadline. In accordance with this Agreement, this portion of the Gross Settlement shall be distributed as follows: 50% of the approved Claims Administration Costs; 50% of the Class Counsel Fee and Costs Award; and 50% of the approved Class Representative Enhancement Payment.
- c. Thirty-Seven Thousand, Five Hundred Dollars and No/Cents (\$37,500.00), shall be wire-transferred by Defendant to the Claims Administrator one calendar year after the second Transfer Deadline. In accordance with this Agreement, this portion of the Gross Settlement shall be distributed as follows: 50% of the approved Claims Administration Costs; 50% of the Class Counsel Fee and Costs Award; and 50% of the approved Class Representative Enhancement Payment.

**Payments to Be Taken from the Gross Settlement Amount**

Payments to be taken from the Gross Settlement Amount shall be distributed as follows:

1           39.     Payment of Class Counsel Award. Defendants agree not to oppose or impede  
2 any application or motion by Class Counsel for a Class Counsel Award of not in excess of one-  
3 third of the Gross Settlement Amount in attorneys' fees, and actual costs incurred of up to eight  
4 ten thousand dollars (\$10,000.00), which amount shall include any and all costs and expenses  
5 associated with Class Counsel's litigation and settlement of the Action. The Claims  
6 Administrator shall release to Class Counsel its pro rata share of the Court-approved Class  
7 Counsel Fee and Costs Award from the monies collected from Defendants fifteen (15) days  
8 after receipt of the funds from the Second and Third Transfers. Class Counsel shall be solely  
9 and legally responsible to pay all applicable taxes on the payments made pursuant to this  
10 paragraph and shall indemnify and hold harmless Defendants and their attorneys from any  
11 claim or liability for taxes, penalties, or interest arising as a result of the taxes owed by Class  
12 Counsel. The appropriate 1099 tax forms shall be provided by the Claims Administrator to  
13 Class Counsel for the payments made pursuant to this paragraph.

14           40.     Class Representative Enhancement Payment. In recognition of her effort, work,  
15 stigma and risk in prosecuting the Action on behalf of Class Members, Defendants agree not to  
16 oppose or impede any application or motion by Plaintiff for a Class Representative  
17 Enhancement Payment of Ten Thousand Dollars (\$10,000), subject to Court approval and the  
18 Court finally approving this Settlement Agreement. The Class Representative Enhancement  
19 Payment shall be in addition to the Plaintiff's Individual Settlement Payments paid pursuant to  
20 the Settlement. The Claims Administrator shall release to Plaintiff her share of the Court  
21 approved Representative Enhancement Payment from the monies paid by Defendants  
22 pursuant to this Settlement Agreement. The Class Representative Enhancement Payments shall  
23 be made fifteen days (15) days after receipt of the funds from the Second and Third Transfers.  
24 Plaintiff shall be solely and legally responsible to pay any and all applicable taxes on her Class  
25 Representative Enhancement Payments and shall indemnify and hold harmless the Parties and  
26 their respective counsel from any claim or liability for taxes, penalties, or interest arising from  
27 the Class Representative Enhancement Payment and owed by the Plaintiff Class Representative.

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1 The Claims Administrator shall issue to Plaintiff the appropriate 1099 tax form(s) for the Class  
2 Representative Enhancement Payment.

3 41. Claims Administration Costs. The Claims Administration Costs will not exceed  
4 \$6,795. These costs shall include the cost of notifying the Class of the settlement, distributing  
5 payments to the Class, Plaintiff, and Class Counsel, required tax reporting and payment to the  
6 taxing authorities on the Individual Settlement Payments, and the issuing of 1099 and W-2 IRS  
7 Forms. The Claim Administrator shall pay itself the pro rata share of its actual expenses as  
8 provided for in this Agreement and approved by the Court, from the monies collected from  
9 CardinalHire until the entire amount approved by the Court has been paid.

10 42. Net Settlement Amount. After deducting the Class Counsel Award, Class  
11 Representative Enhancement Payment, and Claims Administration Costs from the Gross  
12 Settlement Amount, the remaining Net Settlement Amount (after deduction of standard  
13 employee payroll taxes on the payroll portion of the Individual Settlement Payments) shall be  
14 mailed to all Class Members who do not file a Request for Exclusion as provided in the  
15 Settlement.

16 43. Calculation and Distribution of Individual Settlement Payments. The Claims  
17 Administrator will determine the amounts of Individual Settlement Payments to be awarded to  
18 the Participating Class Members as follows: Class Member's gross share of the Net Settlement  
19 Amount (before deduction for the standard employee's share of payroll taxes) is calculated by  
20 dividing the Net Settlement Amount by the total number of weeks worked by all Class Members  
21 during the Class Period and multiplying that amount by the number of workweeks worked by  
22 each Class Member during the Class Period.

23 44. Voided Settlement Checks. The amount that Defendants have agreed to pay  
24 under this Settlement Agreement to Participating Class Members shall remain the property of  
25 Defendants until the checks issued to each Participating Class Member are cashed. Any checks  
26 issued by the Claims Administrator to Participating Class Members shall be negotiable for 180  
27 days. To the extent that it is cost-effective as determined by the Claims Administrator, those  
28 funds represented by Settlement checks returned as undeliverable after following the

1 procedures for undelivered payments in Paragraph 61 and those Settlement checks remaining  
2 uncashed for more than 180 days after issuance (collectively, “Voided Settlement Checks”)  
3 shall first be redistributed pro rata to those Class Members who cashed their Individual  
4 Settlement Payment. If any of these redistributed payments are returned as undeliverable or  
5 remain uncashed after 180, then those funds will be returned to Defendants for the use  
6 specified in Paragraph 46. To the extent funds remain after Defendants apply any Voided  
7 Settlement Checks to payroll taxes as provided in Paragraph 46, those remaining funds will  
8 constitute “unpaid residuals in Class Action litigation” as described in *Cundiff v. Verizon*  
9 *California, Inc.* (2008) 167 Cal.App.4th 718, and shall be paid to the following tax-exempt  
10 charity: National Stuttering Association, subject to approval of the Court.

11 **Tax Treatments, Liabilities and Disclaimers**

12 45. Tax Treatment of Individual Settlement Payments. All Individual Settlement  
13 Payments will be allocated as follows: 20% to settlement of wage claims and 80% to settlement  
14 for reimbursement of business expenses, interest and penalties claims. The portion allocated to  
15 wages shall be reported on an IRS Form W-2 and the portion allocated to business expenses,  
16 interest and penalties shall be reported on an IRS Form-1099 issued by the Claims  
17 Administrator. The Claims Administrator shall deduct the standard employee’s share of payroll  
18 taxes for the portion of the Individual Settlement Payments allocated to wages from the  
19 Individual Settlement Payments and remit such payroll taxes to the taxing authorities.

20 46. Defendants’ Portion of Payroll Taxes. CardinalHire shall separately pay the  
21 employer contributions of all federal, state, and local taxes (including, but not limited to, FICA,  
22 FUTA, and SDI), and such taxes will not be included in the Gross Settlement Amount, but may  
23 be reimbursed in whole or in part out of Voided Settlement Checks.

24 47. Tax Liability (Parties and Counsel Disclaimers). Circular 230 Disclaimer. The  
25 Parties and their counsel make no representations as to the tax treatment or legal effect of the  
26 payments called for hereunder, and Participating Class Members are not relying on any  
27 statement or representation by the Parties or their counsel in this regard.  
28

1 EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE  
2 “ACKNOWLEDGING PARTY” AND EACH PARTY TO THIS AGREEMENT OTHER  
3 THAN THE ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES  
4 AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN  
5 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR  
6 THEIR ATTORNEYS AND OTHER ADVISORS, IS OR WAS INTENDED TO BE, NOR  
7 SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE, OR BE  
8 CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF  
9 UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS  
10 AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY  
11 UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR  
12 ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B)  
13 HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE  
14 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR  
15 TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY  
16 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY  
17 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE  
18 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER  
19 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE  
20 CONFIDENTIALITY OF ANY SUCH ATTORNEY’S OR ADVISOR’S TAX STRATEGIES  
21 (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON  
22 DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR  
23 TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION  
24 CONTEMPLATED BY THIS AGREEMENT.

25         Participating Class Members understand and agree that Participating Class Members  
26 will be solely responsible for the payment of any income taxes and penalties assessed on the  
27 payments described herein and will hold Defendants, Defendants’ attorneys, Plaintiff and Class  
28

1 Counsel free and harmless from any claims concerning the tax liability associated with any  
2 payments made to Participating Class Members pursuant to this Settlement Agreement.

3  
4 **Notice & Administrative Execution Procedures**

5 The Notice procedures to notify all Class Members of the Settlement Agreement  
6 provisions shall be managed and administered as follows:

7 48. Class List. Within ten (10) calendar days after Preliminary Approval,  
8 Defendants shall provide the Class List to the Claims Administrator in conformity with the  
9 definition, substance, and format as previously indicated.

10 49. Notice by First-Class U.S. Mail, Email and Establishment of Case Website.  
11 Within ten (10) days after receiving the Class List from Defendants as provided herein, the  
12 Claims Administrator shall send a Notice and Settlement Award Form to all Class Members via  
13 regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the  
14 Class List or the National Change of Address Database, and via email to the last known email  
15 address on file with Defendants. The Claims Administrator shall also establish a website for the  
16 case on which information regarding the Final Approval Hearing will be contained. This  
17 website will go live no later than the day upon which the Notice is sent.

18 50. Confirmation of Contact Information in the Class List. Prior to mailing, the  
19 Claims Administrator shall perform a search based on the National Change of Address Database  
20 for information to update and correct for any known or identifiable address changes. Any  
21 Notices returned to the Claims Administrator as non-deliverable on or before the Response  
22 Deadline shall be sent within forty-eight (48) hours via regular First-Class U.S. Mail to the  
23 forwarding address affixed thereto and the Claims Administrator shall indicate the date of such  
24 re-mailing on the Notice. If no forwarding address is provided, the Claims Administrator shall  
25 promptly attempt to determine the correct address using a single skip-trace or other search using  
26 the name, address and/or Social Security number of the Class Member involved, and shall then  
27 perform a single re-mailing. If, after performing a skip-trace search, the Notice is still returned  
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1 to the Claims Administrator as non-deliverable, that individual will be deemed a Class Member  
2 for all purposes of the Settlement, without any further effort of the Claims Administrator required.

3 51. Notices. All Class Members will receive a Notice. Each Notice will list:  
4 (1) information regarding the nature of the Action, (2) a summary of the substance of the  
5 Settlement, (3) the Class definition, (4) the formula for calculating Individual Settlement  
6 Payments, (5) the deadlines by which the Class Member must submit (i) a Request for Exclusion,  
7 (ii) submit an objection to the Settlement or (iii) dispute the amount on the Settlement Award  
8 Form, and (6) a description of the claims to be released by all Class Members who do not submit  
9 timely and valid Requests for Exclusion. Subject to the approval of the Court, the Notice shall  
10 be substantially in the form attached hereto as Exhibit “B.”

11 52. Settlement Award Form. All Class Members will receive a Settlement Award  
12 Form. Each Settlement Award form will list the number of Workweeks the Class Member  
13 worked during the Class Period, and the period of time during the Class Period worked by the  
14 Class Members. Subject to approval of the Court, the Settlement Award Form shall be  
15 substantial in the form attached hereto as Exhibit “D,” and shall be in English.

16 53. Disputed Information on Settlement Award Forms. If a Class Member disputes  
17 the information listed in his or her Settlement Award Form, the Class Member may produce  
18 evidence to the Claims Administrator substantiating factual information different from that  
19 appearing in the Settlement Award Form. To the extent any Class Member disputes the  
20 information listed on his or her Settlement Award Form prior to the Response Deadline, the  
21 Class Member may produce evidence to the Claims Administrator showing the correct employment  
22 dates or data that he or she contends should be shown in the Settlement Award Form. Defendants’  
23 records will be presumed determinative, absent evidence to rebut those records, but the Claims  
24 Administrator shall evaluate the evidence submitted by the Class Member and make the final  
25 decisions as to which dates and data should be applied, which determination will be conclusive, final  
26 and binding. Defendants agree to diligently and in good faith resolve any Class Member dispute  
27 regarding the information listed in Settlement Award Form. Class Members who failed to provide  
28

1 information in support of any dispute by the Response Deadline, shall be foreclosed from contesting  
2 Defendants' data.

3 54. No Requirement for a Claim Form. Class Members shall not be required to submit a  
4 Claim Form to receive an Individual Settlement Payment.

5 55. Request for Exclusion Procedures. Any Class Member wishing to opt-out from  
6 the Settlement Agreement must personally sign or have his or her authorized representative  
7 sign a written Request for Exclusion. The Request for Exclusion may be sent via First Class  
8 Mail or via email at Notice@phoenixclassaction.com to the Claims Administrator not later  
9 than the Response Deadline. The Request for Exclusion must (a) state the name, address, and  
10 telephone number of the Class Member requesting exclusion; (b) be signed by the Class  
11 Member or his or her authorized representative; (c) be addressed to the Claims Administrator  
12 at the specified physical and/or email address indicated in the Notice; and (d) be postmarked or  
13 reflect a sent date on or before the appropriate deadline. The Notice shall provide these  
14 instructions to the Class Members who wish to exclude themselves from the Class. The date of  
15 the postmark on the return mailing envelope or the sent date indicated on an email shall be the  
16 exclusive means to determine whether a Request for Exclusion has been timely submitted.  
17 Class Members who submit Requests for Exclusion shall not be entitled to file objections to the  
18 Settlement and any objections filed by a Class Member who has excluded him or herself from  
19 the Settlement shall be disregarded by the Court. Class Members who do not submit valid  
20 Requests for Exclusion shall be bound by all terms of the Settlement Agreement, Release, and  
21 any Final Judgment entered by the Court if the Settlement is granted final approval by it. The  
22 Parties agree not to encourage or discourage any Class Members to exclude themselves or opt-  
23 out of the Settlement Agreement.  
24

25 56. Defective Requests for Exclusion. If any Class Member submits a defective  
26 Request for Exclusion before the Response Deadline, the Claims Administrator shall send a  
27 cure letter to such Class Member, advising that the Request for Exclusion is defective, stating  
28 the nature of the defect and that the defect must be cured to render the Request for Exclusion

1 valid (“Cure Letter”). The Claims Administrator must mail the Cure Letter within five (5)  
2 business days of receiving the defective Request for Exclusion. The Cure Letter shall state that  
3 the Class Member has ten (10) days from the date of the Cure Letter or the Response Deadline,  
4 whichever date is later, to mail or email a revised Request for Exclusion. If a Class Member  
5 responds to a Cure Letter by resubmitting a defective Request for Exclusion, then the Claims  
6 Administrator shall have no further obligation to give notice of a need to cure. Defective  
7 Requests for Exclusion will be considered invalid and, if received after the Response Deadline,  
8 Class Members will have no right to cure them, except as provided for herein or by the  
9 agreement of the Parties.

10           57.    Objection Procedures. To object to the Settlement Agreement, a Class Member  
11 must submit his or her objection to the Claims Administrator by not later than the Response  
12 Deadline. An objection may be sent via First Class Mail or via email  
13 to [Notice@phoenixclassaction.com](mailto:Notice@phoenixclassaction.com). The Notice of Objection must be signed by  
14 the Class Member or that Class Member’s authorized representative and provide the Class  
15 Member’s name, most current address, most current telephone number, the basis for each  
16 objection, and the Class Member’s dates of employment with CardinalHire. The date of the  
17 postmark on the envelope of the Objection or the sent date indicated on an email shall be the  
18 exclusive means to determine whether an Objection has been timely submitted. The Notice  
19 shall provide these instructions about how to object to the Settlement. Class Members who fail  
20 to make written objections in the manner specified above shall be deemed to have waived any  
21 objections and shall be foreclosed from making any future objection (whether by appeal or  
22 otherwise) to the Settlement Agreement. Class Members who submit timely Notices of  
23 Objection in compliance with the foregoing provision shall have a right to appear at the Final  
24 Approval Hearing.  
25

26           Class Members who have mailed timely and valid exclusion letters shall not have the  
27 right to object to the Settlement and any such objections shall not be considered by the Court.

28           The Parties agree not to encourage any Class Members to object to the Settlement

1 Agreement, or to opt out of the settlement. The Parties are not prohibited from discouraging a  
2 Class Member from objecting to the Settlement Agreement, or from opting out of the  
3 settlement.

4 58. Certification of Requests for Exclusion and Objections. All Requests for  
5 Exclusion and Objections will be submitted to the Claims Administrator, who shall then certify  
6 jointly to Class Counsel, Defendants' Counsel, and the Court the total number of Class  
7 Members who have submitted Requests for Exclusion and Objections and provide copies of  
8 same to Class Counsel and Defendants' Counsel.

9 59. Notification Reports Regarding Requests for Exclusion and Objections. The  
10 Claims Administrator shall provide Defendants' Counsel and Class Counsel a weekly report  
11 showing at a minimum: (i) the number of Class Members who have submitted timely, valid  
12 Requests for Exclusion and/or Objections; (ii) whether any Class Member has submitted a  
13 challenge to the employment dates identified in their Notice, or any other information contained  
14 in the Notice; and (iii) statistics showing which disputes that have been resolved and which  
15 have not been resolved. Additionally, the Claims Administrator will provide to counsel for  
16 both Parties any updated reports as needed or requested.

17 60. Resolution of Disputes Concerning Individual Settlement Payments. Should  
18 any questions arise regarding the determination of eligibility for the amounts of any Individual  
19 Settlement Payments under the terms of this Settlement Agreement that are not otherwise  
20 resolved by the Claims Administrator, counsel for the Parties shall meet and confer in an  
21 attempt to reach an agreement. If Class Counsel and Defendants' Counsel cannot agree, the  
22 Claims Administrator shall then make the final determination, and that determination shall be  
23 conclusive, final and binding.

24 61. Undeliverable Payments.

25 Should any Individual Settlement Payment be returned as undeliverable, the Claims  
26 Administrator shall re-mail such payment within forty-eight (48) hours via regular First-Class  
27 U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the  
28

1 Claims Administrator shall promptly attempt to determine the correct address using a single  
2 skip-trace or other search using the name, address and/or Social Security number of the Class  
3 Member involved and shall then re-mail the payment.

4 62. Posting of Judgment. The Claims Administrator shall post the Settlement  
5 Agreement, pertinent filed pleadings, and motions for final approval and attorney's fees and  
6 costs on its website in English.

7 63. Additional Administrative Duties of the Claims Administrator. The Claims  
8 Administrator shall report Individual Settlement Payments to all required taxing and other  
9 authorities, withhold the standard employee's share of payroll taxes from the wage portion of  
10 each Individual Settlement Awards, pay all employer share of payroll taxes, and transmit these  
11 amounts to the taxing authorities, and issue IRS Forms W-2 and 1099. Upon completion of  
12 administration of the Settlement, the Claims Administrator shall provide written certification of  
13 such completion to the Court and counsel for all Parties.

14 64. Minimization of Administrative Costs. The Parties agree to cooperate in the  
15 settlement administration process and to make all reasonable efforts to control and minimize  
16 the costs and expenses incurred in administration of the Settlement Agreement.

### 17 **Release of Claims**

18  
19 65. General Release of Claims by Plaintiff. Upon the Effective Date and in  
20 consideration of the payment to Plaintiff of the Class Representative Enhancement Payment,  
21 Plaintiff and her agents, attorneys, representative, heirs, successors, assigns, and each and all of  
22 them, hereby release, acquit, and forever discharge CardinalHire, Inc. and Validity, Inc., their  
23 parents, subsidiaries, and each of them, and their respective agents, general agents, insurers,  
24 reinsurers, payroll companies, attorneys, representatives, owners, stockholders, policyholders,  
25 principals, partners, employees, officers, directors, trustees, heirs, successors, predecessors,  
26 assigns, parent corporations, subsidiaries, and Paul Campbell ("Released Parties"), and each  
27 and all of them, of and from the Released Claims only accruing during the Class Period. The  
28 foregoing release shall be effective as a bar to any and all Released Claims of any character,

1 nature or kind, known or unknown, suspected or unsuspected specified herein. Plaintiff  
2 expressly waives any and all rights and benefits conferred upon her by the provisions of Section  
3 1542 of the California Civil Code or similar provisions of applicable law which are as follows:

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

8 66. Release of Claims by Class Members, and Class Representative. Upon the  
9 Effective Date, all Class Members who have not filed timely, valid Requests for Exclusion shall  
10 release, waive and forfeit, and shall have been deemed to have waived and forfeited, all  
11 Released Claims against the Released Parties, and each of them.

12 67. Labor Code § 206.5 Inapplicable. It is acknowledged that this Settlement is  
13 made with respect to disputed claims and each Class Member who has not opted out will be  
14 deemed to have acknowledged and agreed that California Labor Code § 206.5 is not applicable.  
15 That section provides:

16 (a) An employer shall not require the execution of a release of a claim or right on  
17 account of wages due, or to become due, or made as an advance on wages to be earned,  
18 unless payment of those wages has been made. A release required or executed in  
19 violation of the provisions of this section shall be null and void as between the  
20 employer and the employee. Violation of this section by the employer is a  
21 misdemeanor.

22 (b) For purposes of this section, “execution of a release” includes requiring an  
23 employee, as a condition of being paid, to execute a statement of the hours he or she  
24 worked during a pay period which the employer knows to be false.  
25

26 **Revocation or Nullification of Settlement Agreement**

27 68. Revocation of Settlement Agreement: If more than eight (8) Class Members  
28 submit valid Requests for Exclusion by the Response Deadline, then Defendants may, at their

1 election, rescind the Settlement. Defendants must exercise this right of rescission, in writing,  
2 to the Court and Class Counsel, within fourteen (14) calendar days after the Claims  
3 Administrator notifies the Parties of the total number of Requests for Exclusion received by the  
4 Response Deadline. If Defendants exercise their option to rescind the Settlement, all actions  
5 taken in furtherance of the Settlement will be null and void.

6 69. Nullification of Settlement Agreement. In the event: (i) the Court does not enter  
7 the order of Preliminary Approval specified herein; (ii) the Court does not finally approve the  
8 Settlement as provided herein; (iii) the Court does not enter the Final Judgment as provided  
9 herein, which becomes final as a result of the occurrence of the Effective Date; or (iv) the  
10 Settlement does not become final for any other reasons, this Settlement Agreement shall be null  
11 and void. In such a case, the Parties shall proceed in all respects as if this Settlement Agreement  
12 had not been executed, except that any fees already incurred by the Claims Administrator up to  
13 the date that Defendants receive notice by the Court of any of the events (i) through (iv) shall  
14 be paid by Defendants.

### 15 **Preliminary & Final Approval Hearings**

16 70. Preliminary Approval Hearing. Plaintiff shall request a hearing before the Court  
17 to request Preliminary Approval of the Settlement Agreement. The Parties agree to use their  
18 best efforts to schedule a Preliminary Approval hearing on the first available date after the  
19 execution of this Settlement Agreement. At the Preliminary Approval hearing, the Parties shall  
20 request the entry of a Preliminary Approval Order that: (i) conditionally certifies the Class for  
21 settlement purposes only, (ii) preliminarily approves the proposed Settlement Agreement, (iii)  
22 approves the Notice, and (iv) sets a date for a Final Approval/Settlement Fairness Hearing. The  
23 Preliminary Approval Order shall provide for the Notice and Settlement Award Form to be  
24 sent to all Class Members as specified herein. In conjunction with the Preliminary Approval  
25 hearing, Class Counsel shall submit this Settlement Agreement and all exhibits for approval by  
26 the Court, and prepare, file and serve a motion for preliminary approval of same.

1           71.     Final Settlement Approval Hearing and Entry of Final Judgment and Notice to  
2 the Class. Following the Response Deadline, and with the Court’s permission, a Final  
3 Approval/Settlement Fairness Hearing shall be conducted to determine final approval of the  
4 Settlement Agreement along with the amounts properly payable for (i) the Class Counsel  
5 Award, (ii) the Class Representative Enhancement Payment, and (iii) the Claims  
6 Administration Costs. The Final Approval/Settlement Fairness Hearing shall not be held earlier  
7 than thirty (30) days after the Response Deadline. Class Counsel shall be responsible for  
8 preparing, filing and serving a motion for final approval of the Settlement and for approval of  
9 the fees and various payments provided therein. If approved by the Court, Class Counsel shall  
10 file and serve on Defendants a Notice of Entry of Judgment. The Claims Administrator shall  
11 provide notice of final approval of the Settlement and entry of judgment to the Class by  
12 postcard.

13  
14           72.     Interim Stay of Proceedings. The Parties agree that the application of Code of  
15 Civil Procedure § 583.310 is stayed from May 7, 2021, through the date of entry Final Approval  
16 and Judgment or the date upon which this Settlement Agreement becomes null and void.  
17 Accordingly, pursuant to Code of Civil Procedure § 583.330, the Parties stipulate that the time  
18 within which this action must be brought to trial is stayed. Plaintiff and Defendants agree to  
19 refrain from further litigation of this matter, except such proceedings necessary to implement and  
20 obtain an Order granting Final Approval of the terms of the Settlement Agreement. Plaintiff and  
21 Defendants further agree that the mutual, voluntary cessation of litigation shall terminate if the  
22 motion for final approval of the Settlement Agreement is denied by the Court.

23  
24                                   **Final Judgement Ratifying the Settlement Agreement**

25           73.     Final Judgment and Continued Jurisdiction. Upon final approval of the  
26 Settlement by the Court, or after the Final Approval/Settlement Fairness Hearing, the Parties  
27 shall present the Final Judgment to the Court for its approval. After entry of the Final Judgment,  
28 the Court shall have continuing jurisdiction solely for purposes of addressing: (i) the



1 interpretation and enforcement of the terms of the Settlement, (ii) settlement administration  
2 matters, and (iii) such post-Final Judgment matters as may be appropriate under Court rules or  
3 as set forth in this Agreement.

#### 4 5 6 **Dispute Resolution Concerning the Terms of This Settlement Agreement**

7 74. Dispute Resolution Involving Settlement Agreement. Except as provided  
8 herein, all disputes concerning the interpretation, calculation or payment of settlement claims,  
9 or other disputes regarding compliance with this Settlement Agreement shall be resolved as  
10 follows: if Plaintiff or Class Counsel, on behalf of Plaintiff or any Class Member, or Defendant  
11 at any time contend that the other party has breached or acted contrary to the Settlement  
12 Agreement, that party shall notify the other parties in writing of the alleged violation. Upon  
13 receiving notice of the alleged violation or dispute, the responding party shall have ten (10)  
14 days to correct the alleged violation and/or respond to the initiating party with the reasons why  
15 the party disputes all or part of the allegation. If the response does not address the alleged  
16 violation to the initiating party's satisfaction, the Parties shall negotiate in good faith for up to  
17 ten (10) days to resolve their differences. If Class Counsel and Defendants are unable to resolve  
18 their differences within thirty (30) days after the writing which notified them of the alleged  
19 violation, either Party may elect to file (1) an appropriate Code of Civil Procedure § 664.6  
20 motion for enforcement with the Court, or (2) take any other legal action to enforce this  
21 Settlement Agreement. Reasonable attorney fees and costs, as fixed by the Court, incurred to  
22 enforce this Settlement Agreement shall be awarded to the prevailing party.

#### 23 **General & Miscellaneous Provisions**

24  
25 75. Exhibits Incorporated by Reference. The terms of this Agreement include the  
26 terms set forth in any attached Exhibit, which are incorporated by this reference as though fully  
27 set forth herein. Any Exhibit to this Agreement is an integral part of the Settlement.

28 76. Confidentiality. Parties and their respective counsel agree that the terms of this

1 Settlement (including, but not limited to, any settlement amounts), the negotiations leading to  
2 this Settlement, and all documents related to the Settlement, shall not be discussed with,  
3 publicized or promoted to the public prior to the Court's Preliminary Approval, except as  
4 necessary in order to enforce its terms.

5 77. Entire Agreement. This Settlement Agreement, and the attached Exhibits  
6 constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous  
7 written or oral agreements may be deemed binding on the Parties relating to the claims Plaintiff  
8 brought in this action on her own behalf and on behalf of the putative class.

9 78. Amendment or Modification. This Settlement Agreement may be amended or  
10 modified only by a written instrument signed by counsel for all Parties or their successors-in-  
11 interest.

12 79. Authorization to Enter into Settlement Agreement. Counsel for all Parties  
13 warrant and represent they are expressly authorized by the Parties whom they represent to  
14 negotiate this Settlement Agreement and to take all appropriate action required or permitted to  
15 be taken by such Parties pursuant to this Settlement Agreement in order to effectuate its terms,  
16 and to execute any other documents that may be required to do the same. The Parties and their  
17 counsel will cooperate with each other and use their best efforts to implement the Settlement. If  
18 the Parties are unable to reach agreement on the form or content of any document needed to  
19 implement the Settlement, or on any supplemental provisions which may become necessary to  
20 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve  
21 such disagreement.  
22

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

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

28 82. Counterparts. This Settlement Agreement may be executed in one or more

1 counterparts. All executed counterparts and each of them shall be deemed to be one and the  
2 same instrument provided that counsel for the Parties shall exchange among themselves original  
3 signed counterparts.

4 83. Jurisdiction of the Court. The Court shall retain jurisdiction with respect to the  
5 interpretation, implementation and enforcement of the terms of this Settlement Agreement, and  
6 all related orders and judgments. The Parties and their counsel likewise submit to the Court's  
7 jurisdiction for purposes of interpreting, implementing, and enforcing the terms embodied in  
8 this Settlement Agreement and all related orders and judgments.

9 84. Invalidity of Any Provision. Before declaring any provision of this Settlement  
10 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest  
11 extent possible consistent with applicable precedents so as to define all provisions of this  
12 Settlement Agreement valid and enforceable.

13 85. Plaintiff's Waiver of Right to Be Excluded and to Object. Plaintiff agrees to  
14 sign this Settlement Agreement, and by signing this Settlement Agreement will be bound by its  
15 terms. For good and valuable consideration, Plaintiff further agrees that she shall not request to  
16 be excluded from the Participating Class and agree not to object to any of the terms of this  
17 Settlement Agreement. Any such request for exclusion or objection by Plaintiff shall be void  
18 and of no force or effect. Efforts by Plaintiff to circumvent the terms of this paragraph shall be  
19 void and of no force or effect. Plaintiff shall be issued an Individual Settlement Payment at the  
20 same time the Claims Administrator issues Individual Settlement Payments for other Participating  
21 Class Members.  
22

23 86. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate  
24 to class certification for purposes of this Settlement only; except, however, that Plaintiff or  
25 Class Counsel may appeal any reduction of the Class Counsel Award or of Class Counsel  
26 Representative Enhancement Payment below the amount provided for herein, and either Party  
27 may appeal any Court order that materially alters the Settlement Agreement's terms which  
28 costs will be borne solely by the appealing party.

1 87. Class Certification for Settlement Purposes Only. The Parties agree to stipulate  
2 to class certification only for purposes of the Settlement. If, for any reason, the Settlement is  
3 not approved, the stipulation to certification will be void. The Parties further agree that  
4 certification for purposes of the Settlement is not an admission that class certification is proper  
5 under the standard applied to contested certification motions and that this Settlement will not  
6 be admissible in this or any other proceeding as evidence that (i) a class should be certified or  
7 (ii) CardinalHire is liable to Plaintiff or the Class Members.

8 88. No Admission of Liability. The Parties to the Action understand that the terms  
9 of the Settlement Agreement do not in any way imply an admission of liability on the part of  
10 Defendants, and that it is being agreed to as an efficient method and compromise in order to  
11 resolve disputed claims. This Settlement Agreement may not be used in any proceeding and  
12 for any purpose whatsoever as an admission of liability on behalf of Defendants.

13 89. All Terms Subject to Final Court Approval. All amounts and procedures  
14 described in this Settlement Agreement herein shall be subject to final Court approval.

15 90. Execution of Necessary Documents. All Parties shall execute all documents  
16 reasonably necessary to effectuate the terms of this Settlement Agreement.

17 91. Binding Agreement. The Parties intend that this Settlement shall be fully  
18 enforceable and binding on all parties, and that it shall be admissible and subject to disclosure  
19 in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions  
20 that otherwise might apply under federal or state law.  
21

22  
23 DATED: August 9, 2022

INFINITY LAW GROUP LLP



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25 By: ILYA FILMUS  
26 Attorneys for Plaintiff and Class Counsel  
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DATED: August 9, 2022

KITCHIN LEGAL, APC



By: PATRICK R. KITCHIN  
Attorneys for Defendants CardinalHire, Inc.,  
Vidality, Inc. and Paul Campbell

**CLASS REPRESENTATIVE YEVGENIYA TSEKNOH & DEFENDANTS**

DATED: August 9, 2022

  
\_\_\_\_\_


Paul Campbell, on behalf of CardinalHire, Inc.

DATED: August 9, 2022

  
\_\_\_\_\_

Paul Campbell, on behalf of Vidality, Inc.

DATED: August 9, 2022

  
\_\_\_\_\_

Paul Campbell, an individual

DATED: August 9, 2022

\_\_\_\_\_

Yevgeniya Tsernoh, an individual

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DATED: August 9, 2022

KITCHIN LEGAL, APC

By: PATRICK R. KITCHIN  
Attorneys for Defendants CardinalHire, Inc.,  
Vidality, Inc. and Paul Campbell

**CLASS REPRESENTATIVE YEVGENIYA TSEKNOH & DEFENDANTS**

DATED: August 9, 2022

\_\_\_\_\_

Paul Campbell, on behalf of CardinalHire, Inc.

DATED: August 9, 2022

\_\_\_\_\_

Paul Campbell, on behalf of Vidality, Inc.

DATED: August 9, 2022

\_\_\_\_\_

Paul Campbell, an individual

DATED: August 9, 2022

  
\_\_\_\_\_

Yevgeniya Tsernoh, an individual

**INFINITY LAW GROUP LLP**

1020 ALLEN STREET  
LAFAYETTE, CALIFORNIA 94549

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**EXHIBIT A**

1 INFINITY LAW GROUP LLP  
Ilya Filmus, Esq. (SBN 251512)  
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San Francisco, CA 74118  
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Ashar Ahmed, Esq. (SBN: 256711)  
6 1020 Aileen St.  
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7 Telephone: (415) 426-3580  
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8 [aahmed@infinitylawca.com](mailto:aahmed@infinitylawca.com)

9 Attorneys for Plaintiff,  
Yevgeniya Tsernoh, individually, on behalf of all aggrieved employees, and on behalf of all others  
10 similarly situated

11 Patrick R. Kitchin, Esq. (SBN 162965)  
**KITCHIN LEGAL, APC**  
12 1999 Harrison Street, 18<sup>th</sup> Floor #3535  
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14 Attorney to Defendants,  
Vidality, Inc., CardinalHire, Inc. and Paul Campbell

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **COUNTY OF SAN FRANCISCO**

17  
18 YEVGENIYA TSERNOH, individually, on  
behalf of all aggrieved employees, and on behalf  
19 of all others similarly situated,

20 Plaintiff,

21 vs.

22 VIDALITY, INC., a California corporation;  
CARDINALHIRE, INC., a California  
23 corporation; PAUL CAMPBELL, an individual;  
et al.,

24 Defendants.

CASE NO. CGC-20-585613

Assigned to  
Department:

**[PROPOSED] ORDER GRANTING  
FINAL APPROVAL OF CLASS ACTION  
SETTLEMENT**

Complaint Filed: July 28, 2020

Date: [REDACTED]  
Time: [REDACTED]  
Dept. [REDACTED]

25  
26  
27 **ORDER**

28 On [date of final approval hearing], at [time] in Department 304, the Court hearing



1 Plaintiff's Unopposed Motion for Final Approval of Class Action Settlement ("Motion") and  
2 Motion for Attorney's Fees and Costs. GOOD CAUSE appearing, IT IS HEREBY ORDERED  
3 that the Motion is GRANTED as follows:

4 1. The Court gives Final Approval to the Settlement as fair, reasonable and adequate  
5 as to each of the Parties, and consistent with and in compliance with California law, and directs the  
6 Parties and their counsel to implement and consummate the Settlement Agreement in accordance  
7 with the Settlement Agreement's terms and provisions. The Court finds that the proposed relief  
8 with respect to the Class is appropriate, both as the individual members of the Class and as a whole.

9 2. The Court finds that the notice program implemented pursuant to the Settlement  
10 Agreement (i) constituted appropriate notice, (ii) was reasonably calculated, under the  
11 circumstances, to apprise members of the Class of the pendency of the Litigation, their right to  
12 object or exclude themselves from the proposed Settlement, to appear at the Final Approval  
13 Hearing, and their right to seek monetary and other relief, (iii) was reasonable and constituted due,  
14 adequate and sufficient notice to all persons entitled to receive notice, and (iv) met applicable  
15 requirements of due process.

16 3. Solely for the purposes of effectuating the Settlement, this Court has concluded that  
17 certification of the class is appropriate and hereby certifies the Class as defined below (and in the  
18 Settlement Agreement) and further concludes that this definition is sufficient for purposes of  
19 California Rules of Court 3.765(a) and 3.771, and that the Settlement Agreement is binding on all  
20 Class Members, as defined below:

21 All current or former persons who worked for Vidality, Inc. and/or  
22 CardinalHire, Inc. and/or Paul Campbell in California as Recruiters  
23 from July 28, 2016 through [date of preliminary approval],"  
24 excluding those who submitted valid and timely Requests for  
25 Exclusion with the Claims Administrator.

26 4. The Court finds that Plaintiff and Class Counsel adequately represented the Class  
27 for the purpose of entering into and implementing the Settlement.

28 5. The Court finds that there were [redacted] valid opt outs: [insert names, if any].

1           6.       The Court finds no objections were submitted to the Settlement.

2           7.       The Court adjudges that, upon the Effective Date, Plaintiff and the Class Members  
3 have fully, finally, and conclusively compromised, settled, discharged, dismissed and released any  
4 and all Released Claims as provided in the Settlement Agreement approved by the Court on [date  
5 of preliminary approval], and the amendment thereto.

6           8.       The Court approves Class Counsel's Attorney's Fees in the amount of \$ \_\_\_\_\_,  
7 and Costs in the amount of \$ \_\_\_\_\_. The Attorney's fees and litigation expenses shall be paid  
8 in accordance with the Settlement. The Parties are to bear their own attorney's fees and costs,  
9 except as otherwise provided in this paragraph.

10          9.       The Court further approves payment of a service award in an amount of \$10,000 to  
11 class representative: Yevgeniya Tsernoh. This payment is to come out of the Gross Settlement  
12 Amount in recognition of her services on behalf of the Class in this Action, which is in addition to  
13 her payments as a participating claimant. The service award will be paid in accordance with the  
14 terms of the Settlement.

15          10.      The Court approves the Claims Administration Fee of \$ \_\_\_\_\_, to be paid to  
16 Phoenix Class Administration Solutions out of the Gross Settlement Fund.

17          11.      The Court approves the payments to the Participating Class Members, according to  
18 the terms of the Settlement Agreement and the Final Approval Order and Judgment. Upon the  
19 Effective Date, Plaintiff and all members of the Settlement Class shall have, by operation of this  
20 Order and Judgment, finally and forever released, relinquished, and discharged Defendant from all  
21 claims as defined by the Settlement Agreement. Upon the effective date, Plaintiff and all members  
22 of the Settlement Class shall be and are hereby permanently barred and enjoined from instituting  
23 or prosecuting any and all claims released under the terms of the Settlement Agreement.

24          12.      Without affecting the finality of the Final Order for purposes of appeal, the Court  
25 reserves jurisdiction over the Parties as to all matters relating to the administration, enforcement,  
26 and interpretation of the terms of the Settlement Agreement and the Final Order and for any other  
27 necessary purposes.

28

1           13.     This document shall constitute a Judgment for purposes of California Rule of Court  
2 3.769(h). The Parties are ordered to cause a copy of this Order and Judgment to be emailed or sent  
3 by First-Class U.S. Mail by the Claims Administrator to all members of the Settlement Class in  
4 order to provide notice to the Class as required by California Rule of Court 3.771(b).

5           14.     The Court will set a Case Review Re: Distribution for [date of review hearing] at  
6 [time] in this Department, regarding the status of the settlement administration and any residual  
7 funds. The parties shall file a Declaration Re: Distribution by [time] on [date], and to provide a  
8 conformed courtesy copy directly in this Department.

9  
10           **IT IS SO ORDERED.**

11           Dated: \_\_\_\_\_

\_\_\_\_\_   
San Francisco County Superior Court Judge

**INFINITY LAW GROUP LLP**

1020 ALLEN STREET  
LAFAYETTE, CALIFORNIA 94549

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**EXHIBIT B**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

**THIS IS NOTICE OF A PROPOSED CLASS ACTION SETTLEMENT**

**To: All current and former persons who worked for Defendants Cardinal Hire, Inc. and/or Vidality, Inc., and/or Paul Campbell (jointly, “Defendants”) in California as Recruiters from July 28, 2016 to the [date of preliminary approval] (each a “Class Member,” and collectively, “Class Members”):**

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## **1. WHY IS THIS NOTICE BEING SENT TO YOU?**

This notice is to inform you that a proposed settlement in the class action lawsuit entitled *Tsernoh v. Vidality, Inc., et al.*, Case No. CGC-20-585613 (the “Lawsuit”) has been reached by the Parties, and has been granted preliminary approval by the California Superior Court for the County of San Francisco (the “Court”). This is **not** a notice of a lawsuit against you. **You are not being sued.** Your participation in the Settlement will not affect your engagement with Defendants in any way whatsoever. This notice explains your rights in connection with the proposed class action settlement.

The Court has ordered that this Notice be sent to you because Defendants’ records indicate that you are a Class Member. The purpose of this notice is to inform you of the proposed Settlement of the Lawsuit. The notice is also intended (1) to describe the Settlement, including how the Settlement monies will be allocated and how the Settlement may affect you, and (2) to advise you of your rights and options with respect to the settlement.

## **2. WHO IS ELIGIBLE TO RECEIVE MONEY FROM THIS SETTLEMENT?**

The Settlement Class includes all current and former persons who worked for Vidality, Inc. and/or CardinalHire, Inc. and/or Paul Campbell in California as “Recruiters” from July 28, 2016 through [date of preliminary approval] (“Class Period”).

The Settlement Class will not include any person who previously settled or released any of the Claims covered by the Settlement or any person who was previously paid or received an award through civil or administrative action for any Claim covered by this Settlement.

## **3. WHY YOU SHOULD READ THIS NOTICE**

You should read this Notice because your rights are affected by the proposed Settlement. You should read this Notice to understand your entitlement to money, your right to dispute the information about your workweeks, your right to object to the settlement, your right to opt out of the Settlement, and what happens if you do nothing.

## **4. WHAT IS A CLASS ACTION?**

A class action is a lawsuit in which the claims and rights of many people are decided in a single court proceeding. One representative plaintiff or multiple representative plaintiffs, also known as a “class representative” or “class representatives” can assert claims on behalf of an entire class or group of people.

## **5. SUMMARY OF THE CLAIMS AND ALLEGATIONS**

On July 28, 2020, Plaintiff Yevgeniya Tsernoh (“Plaintiff”) filed a putative class action lawsuit in which she alleged that Defendants owed wages, interest and other penalties to its employees, whom she alleged were misclassified as independent contractors, who worked for Defendants in California as “Recruiters.” Plaintiff’s Complaint alleges causes of action for: (1)

Failure to Pay Minimum Wages (L.C. §§ 1194, 1197, 1197.1 and Wage Order 4-2001); (2) Liquidated Damages for Failure to Pay Minimum Wages (Labor Code § 1194.2); (3) Failure to Pay Overtime and Double-time Wages (L.C. §§ 204, 510, 1194, and Wage Order 4-2001); (4) Failure to Provide Meal Breaks (L.C. §§ 226.7, 512, and Wage Order 4-2001); (5) Failure to Provide Rest Breaks (L.C. § 226.7, and Wage Order 4-2001); (6) Failure to Reimburse Required Business Expenses (L.C. § 2802, and Wage Order 4-2001); (7) Failure to Provide Accurate and Itemized Wage Statements (L.C. § 226); (8) Failure to Timely Pay Wages Upon Termination (L.C. §§ 201, 203); and (9) Unfair Business Practices (Bus. & Prof. Code §§ 17200, et seq.). Plaintiff seeks declaratory relief, as well as recovery of compensatory damages, penalties, interest, and attorneys' fees and costs.

Defendants vigorously deny the allegations in the lawsuit and denies that Plaintiff or the class are entitled to any relief.

On [date of preliminary approval], the Court gave preliminary approval to the settlement of the Lawsuit. The Court has made no opinion on the merits of the Lawsuit.

## **6. WHO REPRESENTS THE PARTIES?**

The following attorneys represent the parties in this Lawsuit:

For the Class:

INFINITY LAW GROUP LLP  
Ilya Filmus, Esq. (SBN 251512)  
3450 Geary Blvd., Suite 210  
San Francisco, CA 74118  
Telephone: (415) 426-3580  
Facsimile: (415) 426-3581  
[ifilmus@infinitylawca.com](mailto:ifilmus@infinitylawca.com)

For Defendants:

Patrick R. Kitchin, Esq. (SBN 162965)  
**KITCHIN LEGAL, APC**  
1999 Harrison Street, 18<sup>th</sup> Floor #3535  
Oakland, CA 94612  
Telephone: (415) 677-9058  
[prk@kitchinlegal.com](mailto:prk@kitchinlegal.com)

The Claims Administrator is Phoenix Class Administration Solutions. Documents regarding this Notice and the settlement can be accessed at [www.phoenixclassaction.com/Tsernoh v Vidality](http://www.phoenixclassaction.com/Tsernoh_v_Vidality) and you can email the Claims Administrator at [Notice@phoenixclassaction.com](mailto:Notice@phoenixclassaction.com) or call the Claims Administrator at 800-523-5773.

## **7. YOU CAN AUTOMATICALLY RECEIVE SETTLEMENT FUNDS**

You do not need to do anything to receive your portion of the Settlement funds. You can object to the fairness of Settlement and still receive your portion of the Settlement Funds. As explained below, it is your responsibility to ensure the Claims Administrator has your current address so a settlement check can be mailed to you.

If you are a Class Member, you will be entitled to money from the Settlement and, you will be bound by the provisions of the Settlement Agreement, including a release of claims that will prevent you from separately suing Defendants unless you timely file a request for exclusion.

## **8. YOU SHOULD PROVIDE YOUR CURRENT ADDRESS TO THE CLAIMS ADMINISTRATOR**

**It is your responsibility to keep a current address on file with the Claims Administrator to ensure receipt of your settlement payment.**

If you move following receipt of this Notice or if the address to which this Notice was sent is not correct, you must immediately contact the Claims Administrator, whose address and contact information is as follows:

*Tsernoh v. Vidality, et. al*  
c/o Phoenix Settlement Administration  
P.O. Box 7208  
Orange, CA 92863  
[Notice@phoenixclassaction.com](mailto:Notice@phoenixclassaction.com)  
800-523-5773

## **9. WHAT SHOULD YOU DO IF YOU WANT TO PURSUE YOUR OWN CLAIMS SEPARATELY FROM THIS CLASS ACTION?**

You may retain your right to pursue any claims you may have separately from this Class Action by requesting to be excluded from the Settlement. You may exclude yourself from the Settlement by mailing a letter or sending an email to the Claims Administrator at the address above, on or before **[EXCLUSION DEADLINE DATE – 60 DAYS FROM DATE OF MAILING]**:

Such written letter or email requesting exclusion must contain your name, address, and telephone number, and clearly state that you wish to be excluded from the class. The request for exclusion must be signed by you or your authorized representative, returned by mail or email to the Claims Administrator, and must be postmarked on or before **[EXCLUSION DEADLINE DATE – 60 DAYS FROM DATE OF MAILING OF NOTICE]**.

If you choose to exclude yourself, you will not receive any money from the settlement, and you will not have any right to object to the settlement. Any request for exclusion submitted after **[DEADLINE]** will be disregarded, and if you submit a late request for exclusion, you will not be able to pursue any claims separately from the Class Action or as part of the Lawsuit.

## **10. IF YOU DO NOT AGREE WITH THE SETTLEMENT**

**IF YOU DO NOT AGREE WITH THE SETTLEMENT**, you can submit an Objection to the Settlement as a whole or to any part of the Settlement. However, if the Court approves the Settlement, you will still be bound by the terms of the Settlement and you will be mailed a settlement payment. You may both object to all or part of the Settlement and participate in it.



To object, you or your authorized representative must submit a signed, written objection by [**INSERT DATE – 60 DAYS FROM DATE OF MAILING OF NOTICE**] by mailing or emailing it to Phoenix Class Administration Solutions at the address above. Your objection should clearly explain why you object to the Settlement. Your objection must state your full name, current address, current telephone number, and the dates of your employment with Defendants. **DO NOT TELEPHONE THE COURT.**

If you timely submit an objection, you may appear at the Final Approval Hearing, which will be held at the San Francisco County Superior Court, Civic Center Courthouse, 400 McAllister Street, San Francisco, CA 94102. You can speak on your own behalf or through your own attorney. Neither you nor your attorney need to provide formal, filed notice of your intended appearance. The date and time of the Final Approval Hearing can change. **Please regularly check the website [www.phoenixclassaction.com/Tsernoh\\_v\\_Vidality](http://www.phoenixclassaction.com/Tsernoh_v_Vidality) for updates.**

If you object to the Settlement, you will remain a member of the Settlement Class and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way and to the same extent as a Settlement Class Member who does not object. **ANY MEMBER OF THE SETTLEMENT CLASS WHO DOES NOT OBJECT TO THE PROPOSED SETTLEMENT NEED NOT APPEAR AT THE SETTLEMENT HEARING.**

## **11. SUMMARY OF THE SETTLEMENT AGREEMENT**

The description below is a summary of the terms of the settlement. You may obtain more information about the proposed settlement by contacting any of the attorneys listed above in Section 6 or by reviewing the Settlement Agreement which is available at [www.phoenixclassaction.com/Tsernoh\\_v\\_Vidality](http://www.phoenixclassaction.com/Tsernoh_v_Vidality).

**Settlement Fund, Net Settlement Amount, and General Terms.** Defendants and the Named Plaintiff have agreed that, in order to resolve this action, Defendants will pay \$135,000.00 (“Settlement Fund”), in exchange for the release of all claims against it. This amount will be used to pay (1) the awards to Class Members (“Settlement Awards”) that do not choose to exclude themselves from the Lawsuit (“Participating Class Members”), (2) an amount not to exceed \$10,000 for the Named Plaintiff for her activities as a class representative (subject to approval of the Court), (3) class counsel’s attorney’s fees, up to a maximum amount of \$45,000 (subject to approval of the Court), and class counsel’s costs of approximately \$10,000 (subject to approval of the Court), and (5) the costs of settlement administration not to exceed \$6,795.

The Net Settlement Amount shall be the settlement consideration remaining after subtracting the following payment obligations approved by the Court from the Settlement Fund of \$135,000:

- (1) Plaintiffs’ attorneys’ fees of no more than \$45,000 and costs of approximately \$10,000;
- (2) Enhancement award to the named Plaintiff in the amount of no more than \$10,000; and
- (3) Settlement administration fees and costs not to exceed \$6,795.

Subject to approval of the Court, based on the amounts requested by Plaintiff's counsel and Plaintiff and on the estimated administrative costs, the estimated Net Settlement Amount is \$63,205, which will be paid to the Class.

Payment Formula. Class Members who do not file a Request for Exclusion will be entitled to a gross award ("Individual Settlement Payment"). Each Individual Settlement Payment (before deduction for payroll taxes) shall be determined as follows:

Subject to Approval of the Court, Participating Class Members will be entitled to a proportional share of the Net Settlement Amount (estimated to be \$63,205), based on the estimated proportional number of weeks worked by each Class Member during the Class Period. Based on current estimates, each Participating Class Member is currently estimated to receive approximately \$25.40 for each week estimated to have been worked as a recruiter.

If you were an "recruiter" during the Class Period, the estimated gross amount that you will receive is included in the attached Settlement Award Form. The gross amount on the Settlement Award form represents an estimate, is subject to Court approval and could change. The share of the Net Settlement Amount for each Class Member is determined by multiplying the estimated number of workweeks each Class Member was engaged by Defendants during the Class Period by the Workweek Dollar Value. The Workweek Dollar Value will be determined by dividing the total amount available to be paid to the Class Members (currently estimated to be \$63,205) by the total estimated number of workweeks worked by the Class Members (estimated to be 2,488). This amount is estimated to be \$25.40 for each week worked. If you do not agree with the number of workweeks noted on the enclosed Settlement Award Form, you may send a letter or an email to the Claims Administrator stating the reasons why you dispute the number of workweeks and stating the number of workweeks you claim you performed. If you have documents of substantiating factual information supporting your dispute, it is helpful to provide them to the Claims Administrator, but you should at least keep any documentation that you have. You must provide your workweeks dispute by [RESPONSE DEADLINE].

Payroll Tax Withholding. Twenty percent (20%) of each gross Individual Settlement Payment shall be comprised of wages subject to payroll taxes and eighty percent (80%) shall be comprised of non-wage income. The Claims Administrator shall withhold the employee's share of payroll taxes from the portions of the Individual Settlement Payments attributable to wage income. The employer's share of payroll taxes owing on the portion of the Individual Payments that is allocated to wages shall be paid out of Voided Settlement Checks to the extent there are any. To the extent that Voided Settlement Checks are insufficient to cover Defendant's share of the payroll taxes, Defendants shall be responsible for paying the employer's share of payroll taxes.

Funds available, if any, from Voided Settlement Checks after applying the funds to payroll taxes will be paid to the tax-exempt charity: National Stuttering Association or another nonprofit organization, subject to Court approval.

Distribution Schedule. Subject to approval of the Court, the Settlement Awards will be made by check. Class member settlement funds will be paid out of the first available funds. Claims administration costs, Class Counsels' attorneys' fees and costs, the Class Representative

Enhancement Payment will be paid in later installments. If funds remain after all distributions, they will be paid to the National Stuttering Association, a tax-exempt charity.

Payment of Attorneys' Fees and Costs for Class Counsel. Class Counsel will ask for fees of no more than \$45,000 and actual costs incurred, of approximately \$10,000. The actual amount awarded will be determined by the Court to ensure that the amount of attorneys' fees and costs is reasonable. This means that Class Counsel's fees and costs will be paid out of the settlement, and Class members will not have to make any individual payments to the lawyers.

## **12. EFFECT OF THE SETTLEMENT-RELEASE OF ALL CLAIMS**

Release of Claims for Class Members. Upon the Effective Date of the Settlement, all Class Members who have not filed timely, valid Requests for Exclusion shall release, waive and forfeit, and shall have been deemed to have waived and forfeited, all Released Claims against CardinalHire and Vidality, Inc., their parents, subsidiaries, and each of them, and their respective agents, general agents, insurers, reinsurers, payroll companies, attorneys, representatives, owners, stockholders, policyholders, principals, partners, employees, officers, directors, trustees, heirs, successors, predecessors, assigns, parent corporations, subsidiaries, affiliated companies, and Paul Campbell ("Released Parties"), and each and all of them.

"Released Claims" means all claims, rights, demands, liabilities and causes of action, alleged in the Action during the Class Period regarding "Recruiters" only. The primary facts alleged in the Action are that Defendants misclassified Plaintiff and the Class Members as independent contractors rather than employees and failed to provide Plaintiff and the Class Members payment of overtime wages, compliant wage statements, reimbursement of expenses, rest breaks, meal periods, and all wages due upon termination. Additionally, Plaintiff alleges that in doing the above, Defendants violated Sections 17200, *et seq.* of the California Business and Professions Code. The Released Claims include all claims a Class Member could make for legal or equitable relief, for compensatory and statutory damages, penalties, liquidated damages, restitution, injunctive relief, pre-judgment and post-judgment interest, and attorney fees and costs of suit that arise from, or relate to, the facts alleged in the Action. The foregoing is intended to include all claims that a Participating Class Member may have for minimum wages, straight time wages, overtime wages, meal and rest periods, claims under Labor Code Sections 201, 203, 204, 226, 226.7, 510, 512, 1194, 1194.2, 1197, 1197.1, *et seq.*, and 2802; California Industrial Welfare Commission Wage Orders; Bus. & Prof. Code §§ 17200, *et seq.*; and all other wage, interest, statutory damages, penalty, injunctive and attorney fee claims arising from, or related to, the facts alleged in the Action.

Conditions of the Settlement. This Settlement is conditioned upon the Court entering a judgment and order at or following the Final Approval Hearing approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class and that judgment and order having become final.

### 13. FINAL SETTLEMENT APPROVAL HEARING

The Final Approval Hearing on the adequacy, reasonableness and fairness of the Settlement will be held on [REDACTED], 2022, at [REDACTED] in Department [REDACTED] of the San Francisco County Superior Court, Civic Center Courthouse, 400 McAllister Street, San Francisco, CA 94102. The Settlement Hearing may be continued. **Please regularly check [www.phoenixclassaction.com/Tsernoh\\_v\\_Vidality](http://www.phoenixclassaction.com/Tsernoh_v_Vidality) for updates regarding the date and/or time of Final Approval hearing.** You are not required to attend the Final Approval Hearing, but you may if you choose. You may also enter an appearance through your own attorney, if you desire, as explained below.

Any Class Member who does not object in the manner provided in Section 10 above shall be deemed to have approved the Settlement and to have waived such objections and shall be forever foreclosed from making any objections (by appeal or otherwise) to the proposed Settlement.

### 14. YOU HAVE THE RIGHT TO YOUR OWN COUNSEL

The Court has approved Infinity Law Group as Class Counsel to represent the interests of the Class. You are entitled to have your own counsel assist you with any objection, exclusion request, and/or any appearance in Court. The Court cannot provide legal advice or answer questions regarding this settlement. For questions or copies of documents regarding the settlement, please refer to the resources in Section 6.

### 15. NO RETALIATION

Applicable law prohibits Defendants from retaliating against employees and/or independent contractors who participate in this Settlement, including exercising opt out rights or objecting to this Settlement.

### 16. WHAT TO DO IF YOU NEED ADDITIONAL INFORMATION

This notice only summarizes this Lawsuit, the settlement, and related matters. For more information about the Settlement or if you have any questions regarding the Settlement, you may contact Counsel for either party at the following addresses and telephone numbers:

For the Class:

INFINITY LAW GROUP LLP  
Ilya Filmus, Esq. (SBN 251512)  
3450 Geary Blvd., Suite 210  
San Francisco, CA 74118  
Telephone: (415) 426-3580  
Facsimile: (415) 426-3581  
[ifilmus@infinitylawca.com](mailto:ifilmus@infinitylawca.com)

For Defendants:

Patrick R. Kitchin, Esq. (SBN 162965)  
**KITCHIN LEGAL, APC**  
1999 Harrison Street, 18<sup>th</sup> Floor #3535  
Oakland, CA 94612  
Telephone: (415) 677-9058  
[prk@kitchinlegal.com](mailto:prk@kitchinlegal.com)

You may also contact the Settlement Administrator at:

Phoenix Settlement Administration Solutions,  
P.O. Box 7208, Orange, CA 92863  
[Notice@phoenixclassaction.com](mailto:Notice@phoenixclassaction.com)  
[www.phoenixclassaction.com/Tsernoh\\_v\\_Vidality](http://www.phoenixclassaction.com/Tsernoh_v_Vidality)  
800-523-5773

***Do not contact the Clerk of the Court about this matter.***

**INFINITY LAW GROUP LLP**

1020 ALLEN STREET  
LAFAYETTE, CALIFORNIA 94549

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**EXHIBIT C**

1 INFINITY LAW GROUP LLP  
Ilya Filmus, Esq. (SBN 251512)  
2 3450 Geary Blvd., Suite 210  
San Francisco, CA 74118  
3 Telephone: (415) 426-3580  
Facsimile: (415) 426-3581  
4 [ifilmus@infinitylawca.com](mailto:ifilmus@infinitylawca.com)

5 INFINITY LAW GROUP LLP  
Ashar Ahmed, Esq. (SBN: 256711)  
6 1020 Aileen St.  
Lafayette, CA 94549  
7 Telephone: (415) 426-3580  
Facsimile: (415) 426-3581  
8 [aahmed@infinitylawca.com](mailto:aahmed@infinitylawca.com)

9 Attorneys for Plaintiff,  
Yevgeniya Tsernoh, individually, on behalf of all aggrieved employees, and on behalf of all others  
similarly situated

10 Patrick R. Kitchin, Esq. (SBN 162965)  
11 **KITCHIN LEGAL, APC**  
1999 Harrison Street, 18<sup>th</sup> Floor #3535  
12 Oakland, CA 94612  
Telephone: (415) 677-9058  
13 [prk@kitchinlegal.com](mailto:prk@kitchinlegal.com)

14 Attorney to Defendants,  
Vidality, Inc., CardinalHire, Inc. and Paul Campbell

15  
16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **COUNTY OF SAN FRANCISCO**

18 YEVGENIYA TSERNOH, individually, on  
behalf of all aggrieved employees, and on behalf  
19 of all others similarly situated,

20 Plaintiff,

21 vs.

22 VIDALITY, INC., a California corporation;  
CARDINALHIRE, INC., a California  
23 corporation; PAUL CAMPBELL, an individual;  
et al.,

24 Defendants.

CASE NO. CGC-20-585613

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

Complaint Filed: July 28, 2020

Date:             
Time:             
Dept.           

25  
26 **ORDER**

27 On [date of preliminary approval], this Court conducted a hearing on the Motion for  
28

1 Preliminary Approval of Class Action Settlement. Ilya Filmus, Esq. of Infinity Law Group LLP  
2 appeared on behalf of Plaintiff Yevgeniya Tsernoh (“Plaintiff”). Patrick R. Kitchin, Esq. of Kitchin  
3 Legal, APC appeared on behalf of Defendants CardinalHire, Inc., Vidality, Inc. and Paul Campbell  
4 (“CardinalHire” or “Defendants”) (collectively, the “Parties”).

5 Having considered the Amended Joint Stipulation of Class Action Settlement and Release  
6 (“Settlement Agreement” or “Settlement”), the Motion for Preliminary Approval of Class Action  
7 Settlement and all of the legal authorities and documents submitted in support thereof and **GOOD**  
8 **CAUSE** appearing, **IT IS HEREBY ORDERED** that the Motion for Preliminary Approval of  
9 Class Action Settlement is **GRANTED**, subject to the following findings and orders:

10 1. This Order incorporates by reference the definitions in the Settlement Agreement,  
11 and all terms defined therein shall have the same meaning as set forth in the Settlement Agreement.

12 2. The Settlement Class shall conditionally be certified for settlement purposes only  
13 and shall include all current and former persons who worked for Vidality, Inc. and/or CardinalHire,  
14 Inc. and/or Paul Campbell in California as “Recruiters” from July 28, 2016 through [date of  
15 preliminary approval] (“Class Period”), except that the Settlement Class will not include any person  
16 who previously settled or released any of the Claims covered by this Settlement or any person who  
17 was previously paid or received an award through any civil or administrative action for any Claim  
18 covered by this Settlement.

19 3. The class action settlement set forth in the Settlement Agreement, entered into  
20 among the parties and their counsel, is preliminarily approved as it appears to be proper, to fall  
21 within the range of reasonableness, to be the product of arm’s-length and informed negotiations, to  
22 treat all Class Members fairly, and to be presumptively valid, subject only to any objections that  
23 may be raised at the Final Approval Hearing.

24 4. The Court approves, as to form and content, the proposed Notice of Class Action  
25 Settlement (“Notice”) and Settlement Award Form. The Notice and Settlement Award Form shall  
26 be sent in English.

27 5. The Court directs the mailing, by First-Class U.S. mail and by electronic mail, of  
28 the Notice and Settlement Award Form to Class Members, in accordance with the schedule set forth



1 below. The Court finds that the method selected for communicating the Settlement to Class  
2 Members is the best notice practicable under the circumstances, constitutes due and sufficient  
3 notice to all persons entitled to notice, and thereby satisfies due process.

4 6. The named Plaintiff is a suitable class representative and is appointed Class  
5 Representative for the Settlement Class.

6 7. Infinity Law Group LLP has demonstrated to the Court's satisfaction that it is  
7 experienced in class action litigation and will adequately represent the interests of all Class  
8 Members. Accordingly, the Court appoints Infinity Law Group LLP as Class Counsel.

9 8. The Court approves Phoenix Class Administration Solutions as the Claims  
10 Administrator.

11 9. The following dates shall govern for the purposes of this Settlement:

12 [date] (or not more than ten calendar days after 13 preliminary approval)	Defendants shall provide to the Claims Administrator a list, formatted in Microsoft Office Excel, of each Class Member's full 14 name; most recent mailing address and 15 telephone number; dates of employment in 16 California during the Class Period and 17 number of workweeks Class Members; and 18 any other relevant information needed to 19 calculate settlement payments.
21 [date] (or not more than twenty calendar days 22 after receipt of the Class List)	Last day for Claims Administrator to mail and email Notice to Class Members.
23 [date] (or not more than sixty calendar days after 24 Claims Administrator mails the Notice)	Last Day for Class Members to opt out, objection to the Settlement and/or mail 25 Individual Response Form.
26 [date]	Plaintiff files Motion for Final Approval of 27 Class Action Settlement and Motion for a

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	Class Representative Enhancement Payment and an Award or Attorneys' Fees and Costs.
<i>[date]</i> , <i>[time]</i> (not less than thirty days after response deadline)	Hearing on Motion for Final Approval of Class Action Settlement and Motion for a Class Representative Enhancement Payment and an Award or Attorneys' Fees and Costs.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
San Francisco County Superior Court Judge

**INFINITY LAW GROUP LLP**

1020 ALLEN STREET  
LAFAYETTE, CALIFORNIA 94549

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**EXHIBIT D**

**SETTLEMENT AWARD FORM**

**YOU DO NOT HAVE TO SUBMIT A RESPONSE TO THIS FORM TO SHARE  
IN THE SETTLEMENT.**

**Name & Address**

The records of Defendants CardinalHire, Inc., Vidality, Inc. and Paul Campbell (“Defendants”) reflect the following:

During the Class Period (defined as July 28, 2016 through [date of preliminary approval], you provided services to Defendants, in California, as a Recruiter, and were classified as an independent contractor. During the Class Period Defendants’ records reflect that you worked [redacted] weeks as a Recruiter. If you worked even one day of a week, that week is counted in calculating the total weeks that you worked. Based on the foregoing information, you are estimated to receive a gross award of \$ [redacted] from this Settlement from which some payroll taxes will be withheld. The foregoing amount is an estimated amount based on current projections and is subject to Court approval and subject to revision.

**Procedure for Disputing Information**

If you dispute the number of weeks that you worked as a Recruiter for Defendants in the State of California from July 28, 2016 to [date of preliminary approval], you must mail or email a letter to the Settlement Administrator on or before [Response Deadline] stating the reasons why you dispute the number of weeks reflected in Defendants’ records. If you have any substantiating factual information different from that appearing in this form (e.g., any pay records, agreements, etc.), you are encouraged to provide copies of that documentation with your dispute. If you choose not to provide supporting documentation, it is beneficial to retain a copy of it in your own records. The information you provide should include the number of workweeks you claim you performed work as a Recruiter for Defendants in the State of California from July 28, 2016 to [date of preliminary approval]. If you fail to dispute the above information by [Response Deadline], you will be foreclosed from disputing the gross award amount stated above.

Any disputes and supporting documentation must be postmarked or emailed by [Response Deadline] and should be sent to the Settlement Administrator at the following address:

*Tsernoh v. Vidality Inc., et. al*  
c/o Phoenix Settlement Administration  
P.O. Box 7208  
Orange, CA 92863  
[Notice@phoenixclassaction.com](mailto:Notice@phoenixclassaction.com)

The Settlement Administrator will review your dispute and all supporting documentation that you provide. The Settlement Administrator will make a determination of how many workweeks you worked during the Class Period, and that determination shall be conclusive, final and binding.